



भारत का राजपत्र

The Gazette of India

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

साप्ताहिक

WEEKLY

सं. 8] नई दिल्ली, फरवरी 18—फरवरी 24, 2018, शनिवार/माघ 29—फाल्गुन 5, 1939

No. 8] NEW DELHI, FEBRUARY 18—FEBRUARY 24, 2018, SATURDAY/ MAGHA 29—PHALGUNA 5, 1939

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके।
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं

Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 9 फरवरी, 2018

का.आ. 305.—दण्ड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, अहमदाबाद, राष्ट्रीय राजधानी क्षेत्र दिल्ली, जयपुर एवं मुंबई के विचारण न्यायालय के समक्ष केन्द्रीय सरकार दिल्ली विशेष पुलिस स्थापना द्वारा अन्वेषित/संस्थापित/आरोप पत्र दर्ज करने के लिए क्रम संख्या 1 से 7 में उल्लिखित निम्नलिखित मामलों और विधि द्वारा स्थापित पुनरीक्षण या अपीलीय न्यायालय में भी क्रम संख्या 8 में उल्लिखित मामलों में पैरवी करने हेतु अधिवक्ता दविंदर पाल सिंह को नियुक्ति की तिथि से अथवा मामलों के निष्पादन तक, जो भी पहले हो, केन्द्रीय अन्वेषण ब्यूरो के विशेष लोक अभियोजक के रूप में एतद्वारा नियुक्त करती है।

क्र. सं.	मामले का व्यौरा	संक्षम न्यायालय	सीबीआई	स्थिति
1.	आरसी 217 2013 ए 0003/सीबीआई/एसीयू. V/नई दिल्ली	दिल्ली		जांच के अधीन
2.	आरसी बीडी 1 2016/ई/0008/सीबीआई/ बीएस एंड एफसी/नई दिल्ली	मुंबई		जांच के अधीन

3.	आरसी 2172015ए0111/सीबीआई/एसीयू-VI/एसी-II /नई दिल्ली	जयपुर	जांच के अधीन
4.	आरसी 13/2016/सीबीआई/ईओडब्ल्यू/मुंबई	मुंबई	जांच के अधीन
5.	आरसी 22022016ई0004/सीबीआई/ईओयू-IV/ईओ-II/नई दिल्ली	दिल्ली	जांच के अधीन
6.	आरसी 2242017 ए 0001/एसी-VI/एसआईटी/नई दिल्ली	दिल्ली	जांच के अधीन
7.	आरसी 3/2015/सीबीआई/एसी-III/एसआईटी/नई दिल्ली	अहमदाबाद	विचारण के अधीन
8.	आरसी बीएसएम 2015ई0006/सीबीआई/बीएस एंड एफसी/मुंबई	मुंबई	विचारण के अधीन

[फा. सं. 225/17/2017-एवीडी-II]

एस. पी. आर. त्रिपाठी, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 9th February, 2018

S.O. 305.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri Davinder Pal Singh, Advocate as Special Public Prosecutor to represent CBI in the following cases mentioned at serial number 1 to 7 under investigation/instituted/chargesheeted by the Delhi Special Police Establishment (CBI) before the trial courts at Ahmedabad, National Capital Territory of Delhi, Jaipur and Mumbai and also to represent the case mentioned at serial number 8 before revisional or appellate courts established by law for period of three years from the date of appointment or disposal of the case whichever is earlier.

Sl. No.	Particular of case	Competent CBI Court	Status
1.	RC 217 2013 A 0003/CBI/ACU.V/New Delhi	Delhi	Under investigation
2.	RC BD 1 2016/E/0008/CBI/BS&FC/New Delhi	Mumbai	-do-
3	RC 2172015A0111/CBI/ACU-VI/AC-II/New Delhi	Jaipur	-do-
4	RC 13/2016/CBI/EOW/Mumbai	Mumbai	-do-
5	RC 22022016E0004/CBI/EOU.IV/EO-II/ New Delhi	Delhi	-do-
6	RC 224 2017 A 0001/AC-VI/SIT/New Delhi	Delhi	-do-
7	RC 3/2015/CBI/AC-III/SIT/New Delhi	Ahmedabad	Under trial
8	RC BSM2015E0006/CBI/BS&FC/Mumbai	Mumbai	Under trial

[F. No. 225/17/2017-AVD-II]

S. P. R. TRIPATHI, Under Secy.

नई दिल्ली, 9 फरवरी, 2018

का.आ. 306.— केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए महाराष्ट्र राज्य सरकार की अधिसूचना सं. MISC-2014/CR-92/SPL-3(A) दिनांक 27.04.2017 के माध्यम से प्राप्त सहमति से किसी साधन अथवा एक्सेस नियंत्रण से परे टर्कित सूचना के द्वारा यूजर आईडी एवं पासवर्ड प्राप्त करके आईटी कार्पोरेशन, टोक्यो, जापान द्वारा संचालित सर्वर कंप्यूटर की अनाधिकृत एक्सेस के अपराधों से संबंधित विधिक सहायता के लिए जापान दूतावास, नई दिल्ली तथा विदेश मंत्रालय, नई दिल्ली/गृह मंत्रालय, नई दिल्ली के माध्यम से राष्ट्रीय पुलिस एजेंसी से प्राप्त अनुरोध पत्र (नोट वर्बल सं. 1/91/13) की जांच करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त महाराष्ट्र राज्य में करती है। इसके अलावा संदिग्ध द्वारा सर्वर कंप्यूटर से छेड़छाड़ की गई और सरकार, निगम कार्यालयों एवं निजी कंपनियों को अवैध प्रोग्रामों के जरिए एक सौ बीस से अधिक ई-मेल भेजी गई जो सूचना प्रौद्योगिकी अधिनियम, 2000 की धारा 43 के साथ पठित धारा 66सी के सदृश जापान के अनाधिकृत कंप्यूटर एक्सेस निषेध अधिनियम की धारा 3 एवं 8 के प्रावधानों का उल्लंघन है, से सम्बद्ध अपराधों में किए गए प्रयासों, दुष्प्रेरणाओं और घड़यांत्रों तथा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न प्रासंगिक अन्य अपराधों की जांच करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का समस्त महाराष्ट्र राज्य में विस्तार करती है।

[फा. सं. 228/66/2014-एवीडी-II]

एस. पी. आर. त्रिपाठी, अवर सचिव

New Delhi, the 9th February, 2018

S.O. 306.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Maharashtra vide Notification No. MISC-2014/CR-92/SPL-3(A)-dated 27.04.2017 hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment in the whole of the State of Maharashtra for investigation in respect of execution of Letters Rogatory received from the National Police Agency Japan through Embassy of Japan, New Delhi (Note Verbale No.1/91/13) and Ministry of External Affairs New Delhi/Ministry of Home Affairs, New Delhi for legal assistance relating to offence of unauthorized access to the server computer administered by IT Core corporation, Tokyo, Japan by obtaining the user ID and password by some means or typed in information which elude access control. More over the suspect exploited the server computer and sent more than hundred and twenty emails with illegal programmes to the Government, municipal officers and private companies which correspond to violation of articles 3 and 8 of Act on the Prohibition of Unauthorized Computer Access of Japan corresponding to section 43 r/w 66 C of Information and Technology Act, 2000 and any other offence(S) attempt, abetments and conspiracies in relation to or in connection with above mentioned offence and any other offence or offences committed in the course of the same transaction arising out of the same facts.

[F. No. 228/66/2014-AVD-II]

S. P. R. TRIPATHI, Under Secy.

नई दिल्ली, 16 फरवरी, 2018

का.आ. 307.—केन्द्र सरकार, दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए पश्चिम बंगाल राज्य सरकार के दिनांक 25.08.2017 की अधिसूचना संख्या-1389-आई.एस./एम-169/14(भाग-1) द्वारा दी गई सहमति से एतद्वारा, अजात व्यक्तियों द्वारा ई-मेल पता maryburns1110@gmail.com का प्रयोग कर कपटपूर्ण कार्य करने से संबंधित सीबीआई आईडी सं. 115051/02/एलआर/2016/ईओयू-IX द्वारा संसूचित न्यायिक सहयोग के लिए अमेरिकी विभाग से प्राप्त लेटर्स रोगेटरी के निष्पादन के संबंध में अन्वेषण के लिए, दिल्ली विशेष पुलिस स्थापन के सदस्यों की शक्ति और अधिकार क्षेत्र का विस्तार संपूर्ण पश्चिम बंगाल राज्य पर करती है। ये कार्य संयुक्त राष्ट्र कोड की, टाइटल 18 की धारा 1028ए और धारा 1029 के उल्लंघन में हैं जो सूचना प्रौद्योगिकी अधिनियम (आईटी अधिनियम) 2000 की धारा 43 आर/डब्ल्यू 60 के विभिन्न प्रावधानों के अनुरूप हैं।

[फा. सं. 228/47/2017-एवीडी-II]

एस. पी. आर. त्रिपाठी, अवर सचिव

New Delhi, the 16th February, 2018

S.O. 307.—In exercise of the powers conferred by sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No.25 of 1946), the Central Government with the consent of State

Government of West Bengal, vide Notification No.1389-I.S.S/2M-169/14(Pt.1) dated 25.08.2017 hereby extends the Powers and Jurisdiction of the members of the Delhi Special Police Establishment in the Whole of the State of West Bengal for Investigation in respect execution of Letters Rogatory received from the US department of Justice for legal assistance (Note Verbale No.182-56390 dated 17.10.2016) communicated by CBI ID No.1150-51/02/ LR/2016/EOU-IX relating to fraudulent practice perpetrated by unidentified individuals using the email address maryburns1110@gmail.com. The acts are in violation of Section 1028A and Section 1029 of Title 18, United States Code which correspond to various provisions of sections 43 r/w 66 of the Information Technology Act (IT Act), 2000.

[F. No. 228/47/2017-AVD-II]

S. P. R. TRIPATHI, Under Secy.

नई दिल्ली, 16 फरवरी, 2018

का.आ. 308.— केन्द्र सरकार, दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए महाराष्ट्र राज्य सरकार की सहमति से, श्री सागर मजूमदार, उप महा प्रबंधक (ओपी-पीएस) द्वारा इन आरोपों पर दर्ज की गई भारतीय स्टेट बैंक की दिनांक 28.02.2017 की शिकायत कि चार व्यापारियों (मर्चेन्ट) की ई-कॉर्मस वेबसाइट पर भारतीय स्टेट बैंक के प्रीपेड कार्ड-सिस्टम की शेष धनराशि में तीन विदेशी यात्रा कार्डों के प्रमाणीकरण के लिए धोखाधड़ी से हेराफेरी कर दी गई जो कि मुख्य रूप से नवंवर, 2016 से फरवरी, 2017 तक की तीन महीनों की अवधि के दौरान किया गया, जिसमें 1.14 मिलियन अमेरिकी डॉलर की धनराशि के 374 लेन-देन (ट्रांजेक्शन) किए गए और इस प्रकार भारतीय स्टेट बैंक को लगभग 9 करोड़ रुपए की हानि हुई, ऐसा करना भारतीय दंड संहिता एवं सूचना प्रौद्योगिकी अधिनियम, 2000 की संगत धाराओं के अधीन घड़यंत्र, धोखाधड़ी, और जालसाजी के अपराधों की श्रेणी में आता है, के संबंध में तथा उपर्युक्त अपराधों के संबंध में या क्रम में किए गए में किसी अन्य अपराध (अपराधों), प्रयासों, उत्प्रेरणों एवं घड़यंत्रों तथा इन्हीं समान तथ्यों से उत्पन्न होने वाले समान संव्यवहारों के क्रम में किए गए किसी अन्य अपराध या अपराधों के संबंध में मामला दर्ज करने एवं अन्वेषण करने के लिए दिनांक 04.10.2017 की अधिसूचना सं. एसआईएससी-2017/सीआर-44/एसपीएल-3 (क) के तहत दिल्ली विशेष पुलिस वल स्थापन के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार सम्पूर्ण महाराष्ट्र राज्य पर करती है।

[फा. सं. 228/51/2017-एवीडी-III]

एस. पी. आर. त्रिपाठी, अवर सचिव

New Delhi, the 16th February, 2018

S.O. 308.— In exercise of the powers conferred by sub section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of State Government of Maharashtra, issued vide Notification No. MISC-2017/CR-44/SPL-3(A) dated 04.10.2017 hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment in the whole of the State of Maharashtra for registration and investigation in respect of complaint of State Bank of India dated 28.02.2017 filed by Shri Sagar Mazumdar, Dy. General Manager (Op-PS) with the allegation that the balance in the Prepaid Card System of the State Bank of India has been altered fraudulently for authorisation of three Foreign Travel Cards which mainly happened within a period of three months from Nov'2016 to Feb'2017, over e-commerce website of four merchants involving 374 transactions amounting to USD 1.14 million, and thereby made a loss of around Rs. 9 crores to State Bank of India, which constitutes offence of conspiracy, cheating and forgery under relevant sections of IPC and Information Technology Act, 2000 and any other offence(s), attempt, abetments and conspiracies in relation to or in connection with above mentioned offence and any other offence or offences committed in the course of the same transaction arising out of the same facts.

[F. No. 228/51/2017-AVD-II]

S. P. R. TRIPATHI, Under Secy.

नई दिल्ली, 16 फरवरी, 2018

का.आ. 309.— केन्द्र सरकार, दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए हरियाणा राज्य सरकार के दिनांक 21.09.2017 की अधिसूचना सं. 20/11 /2017-3 एचजी -1 द्वारा दी गई सहमति से हैकरों के एक समूह जो ऑनलाइन आपराधिक गतिविधियों में लिप हैं और अपनी गतिविधियां, जानकारियां और संसाधन का समन्वय एक ऑनलाइन मंच जिसका नाम डार्कोड है के माध्यम से करता है, जो सूचना और प्रौद्योगिकी अधिनियम, 2000 की धारा 43 के साथ पठित धारा 66ग, 66घ और धारा 66 के अनुरूप टाइटिल 18, संयुक्त राज्य संहिता की धारा 1028 (चोरी के रूप में चिन्हित); टाइटिल 18 संयुक्त राज्य संहिता की धारा 1030 (कंप्यूटर धोखाधड़ी);

टाइटल 18 संयुक्त राज्य संहिता की धारा 1037 (धोखाधड़ी एवं इस से संबंधित इलेक्ट्रॉनिक मेल के सन्दर्भ में) के अंतर्गत अपराध है, के सन्दर्भ में संयुक्त राज्य अमेरिका से प्राप्त सहायता अनुरोध के कार्यान्वयन के संदर्भ में तथा उपर्युक्त में लिखित से संबंधित या उससे जुड़े किसी अन्य आपराधिक कृत्य, कृत्य का प्रयास, अवप्रेरण, एवं पड़यन्त्र या इसी तथ्य से उपजे सामान दुरभिसंधि के दौरान किया गया कोई अन्य अपराध के लिए संयुक्त राज्य न्याय विभाग, वाशिंगटन (दिनांक 10.07.2015 की अनोपचारिक टिप्पणी संख्या 182-42824 से प्राप्त सहायता के लिए अनुरोध के निष्पादन के संबंध में जांच करने के लिए संपूर्ण हरियाणा राज्य में दिल्ली विशेष पुलिस स्थापन के सदस्यों की शक्तियों और न्यायधिकार क्षेत्र का विस्तार सम्पूर्ण हरियाणा राज्य पर करती है।

[फा. सं. 228/33/2017-एवीडी-II]

एस. पी. आर. त्रिपाठी, अवर सचिव

New Delhi, the 16th February, 2018

S.O. 309.— In exercise of the powers conferred by sub section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of State Government of Haryana issued vide Notification No.20/11/2017-3HG-1 dated 21.09.2017 hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment in the whole of the State of Haryana for investigation in respect of execution of the request of Assistance received from the United States Department of Justice, Washington of assistance (Note Verbale No.182-42824 dated 10.07.2015) relating to online criminal activities of a group of hackers who coordinate their activities and share informations and resources through the online hacker forum known as DARKODE which constitute offences of Title 18, United States Code, Section 1028 (Identity Theft); Title 18, United States Code, Section 1030 (Computer Fraud) and Title 18, United States Code, Section 1037 (Fraud and relating activity in connection with electronic mail) corresponding to sec. 66C, sec.66D and sec.66 r/w sec. 43 of the Information Technology Act, 2000 and any other offence(s), attempt, abetments and conspiracies in relation to or in connection with above mentioned offence and any other offence or offences committed in the course of the same transaction arising out of the same facts.

[F. No. 228/33/2017-AVD-II]

S. P. R. TRIPATHI, Under Secy.

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 16 फरवरी, 2018

का.आ. 310.— बीमा विनियामक और विकास प्राधिकरण अधिनियम, 1999 (1999 का 41) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार एतद्वारा श्री सुजय बनर्जी, भूतपूर्व महाप्रबंधक तथा निदेशक, ओआईसीएल, को विना आवास और कार की सुविधा के 4 लाख रुपए प्रति माह के समेकित वेतन पैकेज में पदभार ग्रहण करने की तारीख से 3 वर्ष की अवधि के लिए या 62 वर्ष की आयु तक या अगले आदेशों तक, जो भी पहले हो, भारतीय बीमा विनियामक और विकास प्राधिकरण (इरडाई) में पूर्णकालिक सदस्य (वितरण) के पद पर नियुक्त करती है।

[फा.सं. आर-16011/02/2012-बीमा-1]

डॉ. संजय कुमार, निदेशक

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 16th February, 2018

S.O. 310.— In exercise of the powers conferred by Section 4 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), the Central Government hereby appoints Sh. Sujay Banarji, Ex-General Manager and Director, OICL as Whole-Time Member (Distribution) in the Insurance Regulatory and Development Authority of India (IRDAI) in the consolidated pay package of Rs. 4.00 lakh per month, without facility of house and car, with effect from

the date of assumption of charge of the post for a period of three years or till the age of 62 years or until further orders, whichever is the earliest.

[F. No. R-16011/02/2012-Ins.I]

Dr. SANJAY KUMAR, Director

नई दिल्ली, 16 फरवरी, 2018

का.आ. 311.—बीमा विनियामक और विकास प्राधिकरण अधिनियम, 1999 (41) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार एतद्वारा श्री कुटुम्बे प्रवीण हरि, कार्यकारी निदेशक (निवेश/निगरानी एवं लेखा) भारतीय जीवन बीमा निगम को बिना आवास और कार की सुविधा के 4 लाख रुपए प्रति माह के समेकित वेतन पैकेज में पदभार ग्रहण करने की तारीख से 3 वर्ष की अवधि के लिए या 62 वर्ष की आयु तक या अगले आदेशों तक, जो भी पहले हो, भारतीय बीमा विनियामक और विकास प्राधिकरण (इरडाई) में पूर्णकालिक सदस्य (वित्त एवं निवेश) के पद पर नियुक्त करती है।

[फा.सं. आर-16011/02/2012-बीमा- I]

डॉ. संजय कुमार, निदेशक

New Delhi, the 16th February, 2018

S.O. 311.—In exercise of the powers conferred by Section 4 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), the Central Government hereby appoints Sh. Kutumbe Pravin Hari, Executive Director (Investment / Monitoring & Accounting) LIC of India as Whole-Time Member (Finance & Investment) in the Insurance Regulatory and Development Authority of India (IRDAI) in the consolidated pay package of Rs. 4.00 lakh per month, without facility of house and car, with effect from the date of assumption of charge of the post for a period of three years or till the age of 62 years or until further orders, whichever is the earliest.

[F. No. R-16011/02/2012-Ins.I]

Dr. SANJAY KUMAR, Director

नई दिल्ली, 21 फरवरी, 2018

का.आ. 312.—भारतीय निर्यात-आयात बैंक अधिनियम, 1981 (1981 का 28) की धारा 6 की उपधारा (1) के खंड (ड.) के उपखंड (i) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री विजय केशव गोखले के स्थान पर विदेश मंत्रालय में सचिव, आर्थिक संबंध (ईआर) श्री टी. एस. तिरुमूर्ति (आईएफएस :1985) को अगले आदेशों तक भारतीय निर्यात-आयात बैंक (एकिजन बैंक) के निदेशक मण्डल में निदेशक के पद पर नामित करती है।

[फा.सं. 9/16/2012-आईएफ- I]

सौम्यजित घोष, अवर सचिव

New Delhi, the 21st February, 2018

S.O. 312.—In exercise of the powers conferred by Sub-Clause (i) of Clause (e) of sub-section (1) of Section 6 of the Export Import Bank of India Act, 1981 (28 of 1981), the Central Government hereby nominates Sh. T.S. Tirumurti (IFS: 1985), Secretary (ER), Ministry of External Affairs as Director on the Board of Directors of Export Import Bank of India (EXIM Bank) vice Sh. Vijay Keshav Gokhale until further orders.

[F. No. 9/16/2012-IF-I]

SOUMYAJIT GHOSH, Under Secy.

जल संसाधन, नदी विकास और गंगा संरक्षण मंत्रालय

नई दिल्ली, 12 फरवरी, 2018

का.आ. 313.—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा संशोधित, 1987) के नियम 10 के उपनियम (4) के अनुसरण में, केंद्रीय जल आयोग, नई दिल्ली के निम्नलिखित कार्यालय, जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है :-

1. राष्ट्रीय जल अकादमी, पुणे

[सं. ई-11011/16/2015-हिंदी]

बी. बीण शर्मा, आर्थिक सलाहकार एवं राजभाषा प्रभारी

MINISTRY OF WATER RESOURCES, RIVER DEVELOPMENT AND GANGA REJUVENATION

New Delhi, the 12th February, 2018

S.O. 313.—In pursuance of Sub-rule (4) of Rule 10 of the Official Languages (Use for Official Purpose of the Union) Rules, 1976 (as amended in 1987), the Central Government hereby notifies the following office of Central Water Commission, New Delhi, wherein more than 80% of staff have acquired the working knowledge of Hindi :

1. National Water Academy, Pune.

[No. E-11011/16/2015- Hindi]

B. B. SHARMA, Economic Advisor and Official Language Incharge

कौशल विकास एवं उद्यमशीलता मंत्रालय

(प्रशिक्षण महानिदेशालय)

नई दिल्ली, 15 फरवरी, 2018

का.आ. 314.—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा संशोधित, 1987) के नियम 10 के उपनियम (2) एवं (4) के अनुसरण में एतद्वारा प्रशिक्षण महानिदेशालय (कौशल विकास एवं उद्यमशीलता मंत्रालय) को जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है ।

[सं. डीजीटी-ई-11012/1/2017-हिंदी/705]

सोनू भाटिया, अवर सचिव

MINISTRY OF SKILL DEVELOPMENT AND ENTREPRENEURSHIP

(Directorate General of Training)

New Delhi, the 15th February, 2018

S.O. 314.—In pursuance of Sub-rule (2) and (4) of Rule 10 of the Official Languages (Use for Official Purpose of the Union) Rules, 1976 (as amended in 1987), the Central Government hereby notifies the Directorate General of Training (Ministry of Skill Development and Entrepreneurship) more than 80% staff whereof have acquired the working knowledge of Hindi.

[No. DGT-E-11012/1/2017- Hindi/705]

SONU BHATIA, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय
(उपभोक्ता मामले विभाग)
(भारतीय मानक ब्यूरो)

नई दिल्ली, 6 फरवरी, 2018

का.आ. 315.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम (4) के उपविनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं:-

अनुसूची

क्रम संख्या	लाइसेंस संख्या	स्वीकृत करने की तिथि	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भा.मा	भाग	अनु	वर्ष
1.	एल- 9512393419	05.12.2017	मै0 भगवती टाइल्स, दिल्ली वाई पास, चरखी दादरी, जिला भिवानी - 127306, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
2.	एल- 9512394320	05.12.2017	मै0 आर. एस. टाइल्स एण्ड बिल्डिंग मैटीरियल सप्लायर, बस स्टैण्ड खटियावास, पी. ओ. खलिलपुर, पटौदी, जिला गुडगाँव - 123502, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
3.	एल- 9512393520	06.12.2017	मै0 बाबा नोमी नाथ ट्रेडिंग, वेयरहाउस के सामने, जी. टी. रोड, मेहम, जिला रोहतक - 124111, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
4.	एल- 9512393621	07.12.2017	मै0 मैट्रो टाइल्स कम्पनी, वीपीओ हलुवास, जिला भिवानी - 127021, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
5.	एल- 9512393722	07.12.2017	मै0 भानू बिल्डिंग मैटीरियल सप्लायर, गाँव सनपेड़, पी. ओ. सागरपुर, तहसील बल्लभगढ़, जिला फरीदाबाद - 121004, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
6.	एल- 9512394623	07.12.2017	मै0 बालाजी कंस्ट्रक्शन कम्पनी, महिला पुलिस थाना के सामने, हांसी रोड,	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006

			जिला भिवानी – 127021, हरियाणा					
7.	एल- 9512393924	08.12.2017	मै0 अग्रवाल ट्रेडर्स, जुई रोड, गाँव दुल्हेरी, तहसील तोशाम, दुल्हेरी, जिला भिवानी – 127040, हरियाणा	शिरोपरि प्रेषण प्रयोजन के लिए एल्यूमिनियम चालक भाग 2 एल्यूमिनियम चालक, जस्तीकृट इस्पात प्रबलन	398	02	-	1996
8.	एल- 9512394118	08.12.2017	मै0 हरी ओम, गाहरा रोड, कनीना, जिला महेन्द्रगढ़ – 123027, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
9.	एल- 9512394219	08.12.2017	मै0 प्रिया इन्टरप्राइसिस, प्लॉट नं0 09ए, गली नं0 3 डब्ल्यू, सरुरपुर इण्डस्ट्रीयल एरिया, बल्लभगढ़, जिला फरीदाबाद – 121004, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
10.	एल- 9512394522	08.12.2017	मै0 बागेसरी डोमेस्टिक एप्लाइसेंस कं0, प्लॉट नं0 294, सैक्टर – 24, जिला फरीदाबाद – 121005, हरियाणा	द्रवित पेट्रोलियम गैसों के साथ प्रयुक्त घरेलू गैस चूल्हे	4246	-	-	2002
11.	एल- 9512394724	08.12.2017	मै0 बनभौरी इन्टरलोकिंग टाइल्स, हवाई पटटी, गुजरानी, मेहम, भिवानी रोड, 6 केएम स्टोन, गुजरानी, जिला भिवानी, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
12.	एल- 9590005725	13.12.2017	मै0 तरुण ज्वैलर्स, शॉप नं0 25, सैक्टर – 7, हडा मार्किट, जिला फरीदाबाद, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	1417	-	-	2016
13.	एल- 9590005826	13.12.2017	मै0 बालाजी ज्वैलर्स, हलु बाजार, लोइया कतली के नज़दीक, जिला भिवानी,	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं	1417	-	-	2016

			हरियाणा	मुहरांकन				
14.	एल- 9590006020	13.12.2017	मै0 शिव शक्ति जैवलर्स, 24 फीट रोड के नज़दीक, मलेरना रोड, बल्लभगढ़, जिला फरीदाबाद – 121004, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	1417	-	-	2016
15.	एल- 9512395019	15.12.2017	मै0 वावा हरिदास इन्टरप्राइसिस, नाहरा नाहरी रोड, आसाराम आश्रम वामनोली के नज़दीक, बहादुरगढ़, जिला झज्जर - 124507, हरियाणा	खड़ंजे के लिए पूर्व ठिलित कंक्रीट ब्लॉक	15658	-	-	2006
16.	एल- 9590005919	15.12.2017	मै0 जगन नाथ मोहन लाल सराफ, जवाहर चौक, हलु वाज़ार, जिला भिवानी – 127021, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	1417	-	-	2016
17.	एल- 9512395625	18.12.2017	मै0 लोटस वुडेक प्रा0 लि0, दिल्ली रोहतक रोड, गाँव रोहद, बहादुरगढ़ जिला झज्जर - 124507, हरियाणा	लकड़ी के सपाट दरवाजे के शटर (ठोस कोर प्रकार) भाग 1 प्लाईवुड सतहयुक्त पल्ले	2202	01	-	1999
18.	एल- 9512394926	19.12.2017	मै0 रूद्र टाइल्स एण्ड बिल्डिंग मैटीरियल सप्लायर, गाँव भूपानी, सेक्टर – 89, ग्रेटर फरीदाबाद, जिला फरीदाबाद – 121001, हरियाणा	खड़ंजे के लिए पूर्व ठिलित कंक्रीट ब्लॉक	15658	-	-	2006
19.	एल- 9512395120	19.12.2017	मै0 एस. जी. टाइल्स, खेवट नं0 384, डिनोड रोड ब्रिज के नज़दीक, तोशाम वाई पास, जिला भिवानी – 127021, हरियाणा	खड़ंजे के लिए पूर्व ठिलित कंक्रीट ब्लॉक	15658	-	-	2006
20.	एल- 9512395920	19.12.2017	मै0 न्यू यशोदा टाइल्स, एम सी कॉलोनी, चरखी दादरी,	खड़ंजे के लिए पूर्व ठिलित कंक्रीट ब्लॉक	15658	-	-	2006

			जिला भिवानी – 127306, हरियाणा					
21.	एल- 9590006121	19.12.2017	मै0 जगन नाथ मोहन लाल सराफ, जवाहर चौक, हलु बाज़ार, जिला भिवानी – 127021, हरियाणा	चॉदी एवं चॉदी मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	2112	-	-	2014
22.	एल- 9512395221	21.12.2017	मै0 एन. आर. टाइल इण्डस्ट्रीस, नम्बरदार मार्किट, वादल रोड, झोमू कलां, चरखी दादरी, जिला भिवानी – 127310, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
23.	एल- 9512395322	21.12.2017	मै0 श्री राम इन्टरप्राइसिस, पलुवास के नज़दीक, वाटर वर्क्स, जिला भिवानी – 127021, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
24.	एल- 9512395423	21.12.2017	मै0 एस. आर. टाइल्स एण्ड मैटीरियल सप्लायर, खेवट नं0 1572, खतोनी नं0 1846, सनसिटी के सामने, जायका होटल के नज़दीक, जिला रेवाड़ी – 123401, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
25.	एल- 9512396021	21.12.2017	मै0 शक्ति कंक्रीट इण्डस्ट्रीस, मिलकपुर 2, भिवानी खड़ा, मिलकपुर, जिला भिवानी – 127021, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
26.	एल- 9512395524	22.12.2017	मै0 अशोका इन्टरप्राइसिस, ग्रामीण बैंक के नज़दीक. सुल्तानपुर, जिला गुडगाँव – 122506, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
27.	एल- 9512395726	28.12.2017	मै0 लोटस वुडेक प्रा0 लि0, दिल्ली रोहतक रोड, गाँव रोहद, बहादुरगढ़ जिला झज्जर - 124507, हरियाणा	समुद्री उपयोग के लिए प्लाईवुड	710	-	-	2010
28.	एल-	29.12.2017	मै0 चिल्लर ट्रेडिंग कम्पनी,	खड़ंजे के लिए पूर्व	15658	-	-	2006

	9512395819		पटौदी रोड, हेली मण्डी, जिला गुडगाँव – 122504, हरियाणा	ढलित कंक्रीट ब्लॉक				
29.	एल- 9512396223	29.12.2017	मै0 जय शिवम इण्डस्ट्रीज, दिल्ली रोहतक वार्ड पास रोड, चरखी दादरी, जिला भिवानी – 127021, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006

[सं. सीएमडी/13 : 11]

एस. के. वर्मा, वैज्ञानिक ई एवं प्रमुख

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 6th February, 2018

S.O. 315.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulation 1988, of the Bureau of Indian Standards, hereby notifies the grant of licence particulars of which are given in the following schedule:

SCHEDELE

Sl. No.	Licences No. CM/L-	Grant Date	Name & Address of the Licensee	Title of the Standard	IS No.	Part	Sec.	Year
1.	L- 9512393419	05.12.2017	M/s Bhagwati Tiles, Delhi Bye Pass, Charkhi Dadri, Distt. Bhiwani - 127306, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
2.	L- 9512394320	05.12.2017	M/s R.S. Tiles and Building Material Supplier, Bus Stand Khatiawas, P.O. Khalilpur, Pataudi, Distt. Gurgaon - 123502, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
3.	L- 9512393520	06.12.2017	M/s Baba Nomi Nath Trading, Enterprises, Opp. Warehouse, G.T. Road, Meham, Distt. Rohtak - 124111, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
4.	L- 9512393621	07.12.2017	M/s Metro Tiles Company, VPO Haluwasi, Distt. Bhiwani - 127021, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
5.	L- 9512393722	07.12.2017	M/s Bhanu Building Material Supplier, Village Sunped, P.O. Sagarpur, Tehsil Ballabgarh, Distt. Faridabad - 121004, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006

6.	L-9512394623	07.12.2017	M/s Balaji Construction Company, Opposite Mahila Police Thana, Hansi Road, Distt. Bhiwani – 127021, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
7.	L-9512393924	08.12.2017	M/s Aggarwal Traders, Jui Road, Village Dulheri, Tehsil Tosham, Dulheri, Distt. Bhiwani - 127040, Haryana	Aluminium Conductors for Overhead Transmission Purposes Part 2 Aluminium Conductors, Galvanized Steel Reinforced	398	02	-	1996
8.	L-9512394118	08.12.2017	M/s Hari Om, Gahra Road, Kanina, Distt. Mahendragarh - 123027, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
9.	L-9512394219	08.12.2017	M/s Priya Enterprises, Plot No.09A, Gali No.3W, Saroopur Industrial Area, Ballabgarh, Distt. Faridabad - 121004, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
10.	L-9512394522	08.12.2017	M/s Bagesri Domestic Appliances Co., Plot No.294, Sector – 24, Distt. Faridabad, Haryana	Domestic Gas Stoves for use with Liquefied Petroleum Gases	4246	-	-	2002
11.	9512394724	08.12.2017	M/s Banbhor Interlocking Tiles, Hawai Patti, Gujranwala. Meham, Bhiwani Road, 6 KM Stone, Gujranwala, Distt. Bhiwani, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
12.	L-9590005725	13.12.2017	M/s Tarun Jewellers, Plot No.25, Sector – 7, HUDA Market, Distt. Faridabad, Haryana	Gold and Gold Alloys Jewellery/Artefacts-Fineness and Marking	1417	-	-	2016
13.	L-9590005826	13.12.2017	M/s Balaji Jewellers, Halu Bazar, Near Loia Katli, Distt. Bhiwani, Haryana	Gold and Gold Alloys Jewellery/Artefacts-Fineness and Marking	1417	-	-	2016
14.	L-9590006020	13.12.2017	M/s Shiv Shakti Jewellers, Near 24 Feet Road, Malerna Road, Ballabgarh, Distt. Faridabad – 121004, Haryana	Gold and Gold Alloys Jewellery/Artefacts-Fineness and Marking	1417	-	-	2016
15.	L-9512395019	15.12.2017	M/s Baba Haridas Enterprises, Nahara Nahri Road, Near Aasaram Aashram Bamnoli,	Precast Concrete Blocks for Paving	15658	-	-	2006

			Bahadurgarh, Distt. Jhajjar - 124507, Haryana					
16..	L- 9590005919	15.12.2017	M/s Jagan Nath Mohan Lal Saraf, Jawahar Chowk, Halu Bazar, Distt. Bhiwani 127021, Haryana	Gold and Gold Alloys Jewellery/Artefacts- Fineness and Marking	1417	-	-	2016
17.	L- 9512395625	18.12.2017	M/s Lotus Woodtech Pvt. Ltd., Delhi Rohtak Road, Village Rohad, Bahadurgarh, Distt. Jhajjar – 124507, Haryana	Wooden Flush Door Shutters (Solid Core Type) Part 1 Plywood Face Penals	2202	01	-	1999
18.	L- 9512394926	19.12.2017	M/s Rudar Tiles & Building Material Supplier, Village Bhupani, Sector-89, Greater Faridabad, Distt. Faridabad - 121001, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
19.	L- 9512395120	19.12.2017	M/s S.G. Tiles, Khewat No. 384, Near Dinod Road Bridge, Tosham Bypass, Distt. Bhiwani - 127021, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
20.	L- 9512395920	19.12.2017	M/s New Yashoda Tiles, M.C. Colony, Charkhi Dadri, Distt. Bhiwani - 127306, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
21.	L- 9590006121	19.12.2017	M/s Jagan Nath Mohan Lal Saraf, Jawahar Chowk, Halu Bazar, Distt. Bhiwani 127021, Haryana	Silver and Silver Alloys Jewellery/Artefacts - Fineness and Marking	2112	-	-	2014
22.	L- 9512395221	21.12.2017	M/s N.R. Tile Industries, Namberdar Market, Badal Road, Jhojhu Kalan, Charkhi Dadri, Distt. Bhiwani - 127310, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
23.	L- 9512395322	21.12.2017	M/s Shree Ram Enterprises, Near Paluwas, Water Works , Distt. Bhiwani - 127021, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
24.	L- 9512395423	21.12.2017	M/s S.R. Tiles & Material Supplier, Khewat No.1572, Khatoni No. 1846, Opp. Suncity, Near Jayka Hotel, Distt. Rewari - 123401, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
25.	L- 9512396021	21.12.2017	M/s Shakti Concrete Industries, Milakpur 2, Bhiwani Khera, Milak Pur, Distt. Bhiwani - 127021,	Precast Concrete Blocks for Paving	15658	-	-	2006

Haryana							
26.	L- 9512395524	22.12.2017	M/s Ashoka Enterprises, Near Gramin Bank, Sultanpur, Distt. Gurgaon - 122506, Haryana	Precast Concrete Blocks for Paving	15658	-	-
27.	L- 9512395726	28.12.2017	M/s Lotus Woodtech Pvt. Ltd., Delhi Rohtak Road, Village Rohad , Bahadurgarh, Distt. Jhajjar – 124507, Haryana	Marine Plywood	710	-	-
28.	L- 9512395819	29.12.2017	M/s Chiller Trading Co., Pataudi Road, Haily Mandi, Distt. Gurgaon - 122504, Haryana	Precast Concrete Blocks for Paving	15658	-	-
29.	L- 9512396223	29.12.2017	M/s Jai Shivam Industries, Delhi Rohtak Bye Pass Road, Charkhi Dadri, Distt. Bhiwani - 127021, Haryana	Precast Concrete Blocks for Paving	15658	-	-

[No. CMD/13:11]

S. K. VERMA, Scientist E & Head

नई दिल्ली, 6 फरवरी, 2018

का.आ. 316.—भारतीय मानक व्यूरो (प्रमाणन) विनियम, 1988 के विनियम (5) के उपविनियम (6) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि निम्न विवरण वाले लाइसेंसों को उनके आगे दर्शायी गई तारीख से रद्द /स्थगित कर दिया गया है :-

अनुसूची

क्र. सं.	लाइसेंस सं सी एम/ एल-	लाइसेंसधारी का नाम व पता	स्थगित किए गए/ रद्द किए गए लाइसेंस के अंतर्गत वस्तु/ प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक	रद्द होने की तिथि
- शून्य -				

[सं. सीएमडी/13:13]

एस. के. वर्मा, वैज्ञानिक ई एवं प्रमुख

New Delhi, the 6th February, 2018

S.O. 316.—In pursuance of sub-regulation (6) of the regulation 5 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies that the licences particulars of which are given below have been cancelled/suspended with effect from the date indicated against each:

SCHEDULE

Sl. No.	Licence No. CM/L-	Name & Address of the Licensee	Article/ Process with relevant Indian Standard covered by the licence cancelled/ suspension	Date of Cancellation
- NIL -				

[No. CMD/13:13]

S. K. VERMA, Scientist E & Head

नई दिल्ली, 6 फरवरी, 2018

का.आ. 317.— भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम (4) के उपविनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतदद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं:-

अनुसूची

क्रम संख्या	लाइसेंस संख्या	स्वीकृत करने की तिथि	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भा.मा	भाग	अनु	वर्ष
1.	एल- 9512393318	01.11.2017	मै0 न्यू एस. के. कंस्ट्रक्शन कं0, गाँव धानी किरारोड, नारनौल, जिला महेन्द्रगढ़, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
2.	एल- 9590004723	01.11.2017	मै0 जे. एस. ज्वैलस, नारनौल से रेवाड़ी रोड, अटेली मण्डी, जिला महेन्द्रगढ़ - 123021, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	1417	-	-	2016
3.	एल- 9512391524	02.11.2017	मै0 श्री श्याम फलाइएश ब्रिक्स इन्टरप्राइसिस, वीपीओ हलुवास, जिला भिवानी – 127021, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
4.	एल- 9512391718	02.11.2017	मै0 मैराथन इलैक्ट्रीक इण्डिया प्रा0 लि0, सैक्टर - 11, मॉडल टाउन, जिला फरीदाबाद - 121006, हरियाणा	उर्जा दक्ष प्रेरण मोटरे - तीन फेजी स्कियरल केज	12615	-	-	2011
5.	एल- 9512391819	02.11.2017	मै0 अशोक कुमार टाइल्स उद्योग, निजामपुर रोड, गाँव नरेडी, नारनौल, जिला महेन्द्रगढ़ - 123001, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
6.	एल- 9512391920	03.11.2017	मै0 श्री बालाजी टाइल्स, 18 धरचाना, तहसील बावल, बावल, जिला रेवाड़ी - 123501, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006

7.	एल- 9590004824	03.11.2017	मै0 जिन्दल जैलस, सदर बाज़ार, जिला गुडगाँव – 122001, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	1417	-	-	2016
8.	एल- 9590004925	03.11.2017	मै0 जिन्दल जैलस, सदर बाज़ार, जिला गुडगाँव – 122001, हरियाणा	चॉदी एवं चॉदी मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	2112	-	-	2014
9.	एल- 9590005018	03.11.2017	मै0 अशोक जैलर्स, कुलाना रोड, हेली मण्डी, अनाज मण्डी, जिला गुडगाँव - 122504, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	1417	-	-	2016
10.	एल- 9590005119	03.11.2017	मै0 अशोक जैलर्स, कुलाना रोड, हेली मण्डी, अनाज मण्डी, जिला गुडगाँव - 122504, हरियाणा	चॉदी एवं चॉदी मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	2112	-	-	2014
11.	एल- 9512392021	06.11.2017	मै0 कुलदीप मलिक कंट्रैक्टर, 676/34, हरी सिंह कालोनी, सुनारिया चौक, जिला रोहतक – 124004, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
12.	एल- 9512392122	14.11.2017	मै0 गिरिराज कंक्रीट प्रोडक्ट्स, सिकरोना, भंकपुर रोड, बल्लभगढ़, जिला फरीदाबाद – 121004, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
13.	एल- 9512392821	14.11.2017	मै0 एस. एस. पेवर्स, कंकरोला-भंगरोला वस स्टैण्ड, हयात नगर, जिला गुडगाँव, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
14.	एल- 9590005220	15.11.2017	मै0 जैन आभूषण प्रा0 लि0, भगवान महावीर बाज़ार, जिला पलवल – 121102, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	1417	-	-	2016

15.	एल- 9590005321	15.11.2017	मै0 जैन आभूषण प्रा0 लि0, भगवान महावीर बाजार, जिला पलवल – 121102, हरियाणा	चॉदी एवं चॉदी मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	2112	-	-	2014
16.	एल- 9512392720	16.11.2017	मै0 पिनाकल बिल्डटेक प्राइवेट लिमिटेड, गदइपुर पटौदी-रेवाड़ी रोड़, जिला गुडगाँव - 110057, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
17.	एल- 9590005422	16.11.2017	मै0 बीएमजे जैम्स एण्ड ज्वैल्स, जैन मन्दिर गली, बनिया वाड़ा, बल्लभगढ़, जिला फरीदाबाद – 121004, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	1417	-	-	2016
18.	एल- 9590005523	16.11.2017	मै0 बीएमजे जैम्स एण्ड ज्वैल्स, जैन मन्दिर गली, बनिया वाड़ा, बल्लभगढ़, जिला फरीदाबाद – 121004, हरियाणा	चॉदी एवं चॉदी मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	2112	-	-	2014
19.	एल- 9512392223	20.11.2017	मै0 बाबा धोबीवाला टाइल्स कंस्ट्रक्शन को, विट्स कॉलेज के सामने, फूल पुरा, जिला भिवानी – 127021, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
20.	एल- 9590005624	20.11.2017	मै0 भगवती ज्वैलर्स, मलेरना रोड, आदर्श नगर (1), 24 फुट रोड के पास, बल्लभगढ़, जिला फरीदाबाद – 121004, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	1417	-	-	2016
21.	एल- 9512392324	22.11.2017	मै0 श्री बालाजी इन्टरप्राइसिस, वीपीओ चहारा, झज्जर रोड, तहसील बहादुरगढ़, जिला झज्जर - 124504, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
22.	एल- 9512392417	22.11.2017	मै0 साहिल इन्टरप्राइसिस, पवन धर्म कांटा के नज़दीक, गाँव रासियावास, वावल,	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006

			जिला रेवाड़ी – 123501, हरियाणा					
23.	एल- 9512392518	22.11.2017	मै0 वी. बी. टाइल्स, भाकरी इण्डस्ट्रीयल एरिया, पावर स्टेशन के नज़दीक, जिला फरीदाबाद – 121004, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
24.	एल- 9512392619	22.11.2017	मै0 निम्को टाइल्स, गॉव कंकरोला. अनसल अपार्टमेंट के नज़दीक, ह्यात रोड, जिला गुडगॉव – 122050, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
25.	एल- 9512393217	22.11.2017	मै0 श्री बालाजी एसोसिएट्स, हाउस नं0 37, सैक्टर – 4, जिला रोहतक - 124001, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
26.	एल- 9512394017	23.11.2017	मै0 विजेन्द्र कुमार कॉन्ट्रक्टर, 861/12, गोहाना अडडा के नज़दीक, सलारा मोहल्ला, जिला रोहतक - 124001, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
27.	एल- 9512394421	27.11.2017	मै0 वर्मा टाइल्स उद्योग, गॉव जाड़ा, डाकघर डीजी पुरा, जिला रेवाड़ी – 123401, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
28.	एल- 9512392922	28.11.2017	मै0 देशवाल ट्रेडिंग कम्पनी, सिटी थाना के नज़दीक, रसूलपुर रोड, जिला पलवल - 121102, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
29.	एल- 9512393023	28.11.2017	मै0 सुरेन्द्रा स्पन पाइप, गॉव व डाकघर कुबलाना, चुदानी रोड, जिला झज्जर - 124104, हरियाणा	पूर्वढलित कंक्रीट पाइप (प्रबलन सहित और रहित)	458	-	-	2003
30.	एल- 9512393124	28.11.2017	मै0 संजय कंस्ट्रक्शन, 01, वीपीओ खड़क वैसी, मेहम, खड़क वैसी, जिला रोहतक – 124514, हरियाणा	खड़ंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006

31.	एल- 9512394825	28.11.2017	मै0 काव्या इन्टरप्राइसिस, गाँव व डाकघर धनकोट, जिला गुडगाँव - 122001, हरियाणा	पैकेजबन्द पेय जल (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा)	14543	-	-	2004
-----	-------------------	------------	---	---	-------	---	---	------

[सं. सीएमडी/13 : 11]

एस. के. वर्मा, वैज्ञानिक ई एवं प्रमुख

New Delhi, the 6th February, 2018

S.O. 317.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulation 1988, of the Bureau of Indian Standards, hereby notifies the grant of licence particulars of which are given in the following schedule:

SCHEDELE

Sl. No.	Licences No. CM/L-	Grant Date	Name & Address of the Licensee	Title of the Standard	IS No.	Part	Sec.	Year
1.	L- 9512393318	01.11.2017	M/s. New S.K. Construction Co., Village Dhani Kirarod, Narnaul, Distt. Mahendragarh, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
2.	L- 9590004723	01.11.2017	M/s. J.S. Jewellers, Narnaul to Rewari Road, Ateli Mandi, Distt. Mahendragarh - 123021, Haryana	Gold and Gold Alloys Jewellery/Artefacts - Fineness and Marking	1417	-	-	2016
3.	L- 9512391524	02.11.2017	M/s. Shri Shyam Flyash Bricks Enterprises, VPO Haluwas, Distt. Bhiwani - 127021, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
4.	L- 9512391718	02.11.2017	M/s. Marathion Electric India Pvt. Ltd., Sector – 11, Model Town, Distt. Faridabad - 121006, Haryana	Energy Efficient Induction Motors – Three Phase Squirrel Cage	12615	-	-	2011
5.	L- 9512391819	02.11.2017	M/s. Ashok Kumar Tiles Udyog, Nizampur Road, Village Naredi, Narnaul, Distt. Mahendragarh - 123001, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
6.	L- 9512391920	03.11.2017	M/s. Shree Balaji Tiles, 18 Dharchana, Tehsil Bawal, Bawal, Distt. Rewari - 123501, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
7.	L- 9590004824	03.11.2017	M/s. Jindal Jewels, Sadar Bazar, Distt. Gurgaon - 122001, Haryana	Gold and Gold Alloys Jewellery/Artefacts - Fineness and	1417	-	-	2016

				Marking				
8.	L-9590004925	03.11.2017	M/s. Jindal Jewels, Sadar Bazar, Distt. Gurgaon - 122001, Haryana	Silver and Silver Alloys Jewellery/Artefacts - Fineness and Marking	2112	-	-	2014
9.	L-9590005018	03.11.2017	M/s. Ashok Jewellers, Kulana Road, Haily Mandi, Anaj Mandi, Distt. Gurgaon - 122504, Haryana	Gold and Gold Alloys Jewellery/Artefacts - Fineness and Marking	1417	-	-	2016
10.	L-9590005119	03.11.2017	M/s. Ashok Jewellers, Kulana Road, Haily Mandi, Anaj Mandi, Distt. Gurgaon - 122504, Haryana	Silver and Silver Alloys Jewellery/Artefacts - Fineness and Marking	2112	-	-	2014
11.	L-9512392021	06.11.2017	M/s. Kuldeep Malik Contractor, 676/34, Hari Singh Colony, Sunariya Chowk, Distt. Rohtak - 124001, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
12.	L-9512392122	14.11.2017	M/s. Girraj Concrete Products, Sikrona, Bhankpur Road, Ballabgarh, Distt. Faridabad - 121004, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
13.	L-9512392821	14.11.2017	M/s. S.S. Pavers, Kankarola-Bhangrola Bus Stand, Hayat Nagar, Distt. Gurgaon, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
14.	L-9590005220	15.11.2017	M/s. Jain Abhushan Pvt. Ltd., Bhagwan Mahavir Bazar, Distt. Palwal - 121102, Haryana	Gold and Gold Alloys Jewellery/Artefacts - Fineness and Marking	1417	-	-	2016
15.	L-9590005321	15.11.2017	M/s Jain Abhushan Pvt. Ltd., Bhagwan Mahavir Bazar, Distt. Palwal - 121102, Haryana	Silver and Silver Alloys Jewellery/Artefacts - Fineness and Marking	2112	-	-	2014
16.	L-9512392720	16.11.2017	M/s. Pinnacle Buildtech Private Limited, Gadaipur Pataudi-Palwal Road, Distt. Gurgaon - 110057, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
17.	L-9590005422	16.11.2017	M/s. BMJ Gems & Jewels, Jain Mandir Gali, Baniya Wara, Ballabgarh, Distt. Faridabad - 121004, Haryana	Gold and Gold Alloys Jewellery/Artefacts - Fineness and Marking	1417	-	-	2016

18.	L-9590005523	16.11.2017	M/s. .BMJ Gems & Jewels, Jain Mandir Gali, Baniya Wara, Ballabgarh, Distt. Faridabad - 121004, Haryana	Silver and Silver Alloys Jewellery/Artefacts - Fineness and Marking	2112	-	-	2014
19.	L-9512392223	20.11.2017	M/s. Baba Dhobiwala Tiles Constt. Co., Opp. BITS College, Phool Pura, Distt. Bhiwani - 127021, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
20.	L-9590005624	20.11.2017	M/s. Bhagwati Jewellers, Malerna Road, Adarsh Nagar (1), Near 24 Foot Road, Ballabgarh, Distt. Faridabad - 121004, Haryana	Gold and Gold Alloys Jewellery/Artefacts - Fineness and Marking	1417	-	-	2016
21.	L-9512392324	22.11.2017	M/s. Shree Balaji Enterprises, VPO-Chahara, Jhajjar Road, Tehsil Bahadurgarh, Distt. Jhajjar - 124504, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
22.	L-9512392417	22.11.2017	M/s. Sahil Enterprises, Near Pawan Dharam Kanta, Village Rasiawas, Bawal, Distt. Rewari - 123501, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
23.	L-9512392518	22.11.2017	M/s. V.B. Tiles, Bhakri Industrial Area, Near Power Station, Distt. Faridabad - 121004, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
24.	L-9512392619	22.11.2017	M/s. Nimco Tiles, Village Kankrola, Near Ansal Appartment, Sector – 91, Hayatpur Road Distt. Gurgaon - 122050, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
25.	L-9512393217	22.11.2017	M/s. Shri Balaji Associates, H. No.37, Sector – 4, Distt. Rohtak - 124001, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
26.	L-9512394017	23.11.2017	M/s. Vijender Kumar Contractor, 861/12, Near Gohana Adda, Salara Mohalla, Distt. Rohtak – 124001, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
27.	L-9512394421	27.11.2017	M/s. Verma Tiles Udyog, Village Jadra, Post DG Pura, Distt. Rewari – 123401, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
28.	L-9512392922	28.11.2017	M/s. Deshwal Trading Company, Near City Thana, Rasulpur	Precast Concrete Blocks for Paving	15658	-	-	2006

			Road, Distt. Palwal - 121102, Haryana				
29.	L- 9512393023	28.11.2017	M/s. Surendra Spun Pipe, VPO Kablana, Chudani Road, Distt. Jhajjar - 124104, Haryana	Precast Concrete Pipe (With and Without Reinforcement)	458	-	-
30.	L- 9512393124	28.11.2017	M/s. Sanjay Construction, 01, VPO Kharak Bainsi, Meham, Kharak Bainsi, Distt. Rohtak - 124514, Haryana	Precast Concrete Blocks for Paving	15658	-	-
31.	L- 9512394825	28.11.2017	M/s. Kavya Enterprises, Village & Post Dhankaut, Distt. Gurgaon - 122001, Haryana	Packaged Drinking Water (Other than Packaged Natural Mineral Water)	14543	-	-

[No. CMD/13:11]

S. K. VERMA, Scientist E & Head

नई दिल्ली, 6 फरवरी, 2018

का.आ. 318.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम (5) के उपविनियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि निम्न विवरण वाले लाइसेंसों को उनके आगे दर्शायी गई तारीख से रद्द/स्थगित कर दिया गया है:-

अनुसूची

क्र. सं.	लाइसेंस सं सी एम/ एल-	लाइसेंसधारी का नाम व पता	स्थगित किए गए/ रद्द किए गए लाइसेंस के अंतर्गत वस्तु/ प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक	रद्द होने की तिथि
- शून्य -				

[सं. सीएमडी/13:13]

एस. के. वर्मा, वैज्ञानिक ई एवं प्रमुख

New Delhi, the 6th February, 2018

S.O. 318.—In pursuance of sub-regulation (6) of the regulation 5 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies that the licences particulars of which are given below have been cancelled/suspended with effect from the date indicated against each:

SCHEDULE

Sl. No.	Licence No. CM/L-	Name & Address of the Licensee	Article/ Process with relevant Indian Standards covered by the licence cancelled/ suspension	Date of Cancellation
- NIL -				

[No. CMD/13:13]

S. K. VERMA, Scientist E & Head

श्रम और रोजगार मंत्रालय

नई दिल्ली, 7 फरवरी, 2018

का.आ. 319.—राष्ट्रपति जी, केन्द्रीय सरकारी औद्योगिक न्यायाधिकरण-सह-श्रम न्यायालय सं. 1 और 2, चंडीगढ़ के पीठासीन अधिकारी के पद का अतिरिक्त कार्यभार श्री ए. सी. डोगरा, पीठासीन अधिकारी, केन्द्रीय सरकारी औद्योगिक न्यायाधिकरण-सह-श्रम न्यायालय सं. 1, दिल्ली को 07.02.2018 से छह महीने की अवधि के लिए अथवा पद को नियमित आधार पर भरे जाने तक या अगले आदेशों तक, जो भी पहले हो, सौंपते हैं।

[सं. जैड-21021/10/2017-सीएलएस-II]

अजय मलिक, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 7th February, 2018

S.O. 319.—The President is pleased to entrust the additional charge of the post of Presiding Officer of the Central Government Industrial Tribunal-cum-Labour Court No.1 & 2, Chandigarh to Shri A.C.Dogra, Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court No.1, Delhi for a period of six months with effect from 07.02.2018 or till the post is filled on regular basis or until further orders, whichever is the earliest.

[No. Z-21021/10/2017-CLS-II]

AJAY MALIK, Under Secy.

नई दिल्ली, 9 फरवरी, 2018

का.आ. 320.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद (गुजरात) के पंचाट (संदर्भ सं. 174/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.02.2018 को प्राप्त हुआ था।

[सं. एल-12012/125/1998-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 9th February, 2018

S.O. 320.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 174/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the Industrial Dispute between the management of Bank of Baroda and their workmen, received by the Central Government on 09.02.2018.

[No. L-12012/125/1998-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 25th January, 2018

Reference: (CGITA) No. 174/2004

The Sr. Manager,
Bank of Baroda,
Panchkuva Branch,
Railwaypura,
Ahmedabad (Gujarat) – 380001

...First Party

V/s

Mr. Vijaykumar Babu Jamadar,
 17, Shivajinagar, Hatkeshwar,
 Bage Firdosh Road,
 Nr. Police Line, Amraiwadi,
 Ahmedabad (Gujarat) – 380026

...Second Party

For the First Party : Shri K.V. Gadhia

For the Second Party : Shri B.B. Thesia

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/125/98-IR(B-II) dated 25.02.1999/04.03.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Bank of Baroda, Ahmedabad is justified in terminating the services of Shri Vijaykumar Babu Jamadar, Sweeper instead of regularising his service w.e.f. 06.12.1996? If not, what relief the workman concerned is entitled to?”

1. The reference dates back to 25.02.1999/04.03.1999. Both the parties were served by issuing notice Ex. 2 dated 12.04.1999. Vijaykumar Babu Jamadar, hereinafter referred to as “second party” submitted the statement of claim Ex. 5 on 14.06.1999 alleging that the second party workman namely Vijaykumar Babu Jamadar has been working with the Bank of Baroda, hereinafter referred to as “first party” since 01.04.1984 on daily wage basis at the rate of Rs. 6/- per day as part time sweeper. He had been working for more than 240 days in all the years till his services were terminated on 06.12.1996 without giving any notice, notice pay or retrenchment compensation. He used to work from 07:00 AM to 10:30 AM for cleaning and sweeping of the office, fetching the water alone and continuously. He was not paid wages as per the bank regulations. He was working with the bank from 01.01.1994 for 12 months in place of permanent part time sweeper Smt. Santaben S. Bhatia who retired on 31.12.1993. He further alleged that he worked for more than 5 hours a day and was being paid Rs. 1200/- per month. His work was similar to the work performed by the permanent sweeper. He has further alleged that he worked for 204 days in the year 1984, 254 day in the year 1985, 317 days in the year 1986, 292 days in the year 1987, 291 days in the year 1988, 274 days in the year 1989, 278 days in the year 1990, 280 days in the year 1991, 282 days in the year 1992, 240 days in the year 1993, 313 days in the year 1994 and 240 days in the year 1995 till his alleged termination. He has further alleged that despite working for more than 240 days in the preceding year, he was terminated without serving notice and paying notice pay or retrenchment compensation.

2. The first party submitted the written statement Ex. 10 on 09.03.2000 denying the veracity of all the averments made in the statement of claim, submitting that he was engaged as a part time sweeper to sweep the premises of Panchkuva Branch of the first party Bank of Baroda for a pay of Rs. 6/- per day after retirement of the regular sweeper named Smt. Santaben S. Bhatia. He was never appointed in the bank as a permanent sweeper. While appointing a sweeper, there are certain guidelines of the bank, therefore, as he was not appointed as a regular employee by way of due procedure of the recruitment rules, therefore, he cannot be reinstated with back wages.

3. The second party workman submitted the zerox copy of the application to be appointed as sweeper on the pad of the Bank of Baroda but this application dated 09.12.1993 does not contain any endorsement or noting of the bank authorities regarding his due appointment. However, the papers Ex. 21 submitted by him, appears to have been issued by the Senior Manager of the Head Office of the Bank of Baroda showing the work days of his duties with a clear noting that he has been working as part time sweeper on daily wage basis with working days in different years as detailed below:

Year	No. of Days
1984	204
1985	254
1986	317
1987	292
1988	291

1989	274
1990	278
1991	280
1992	282
1993	140
Total Days	2612 Days

The second party also submitted the copy of a letter of the Bank of Baroda dated 06.12.1993 retain by Senior Manager of the Branch to Assistant General Manager, Regional Office, Bank of Baroda, mentioning that he has received an application of the second party workman along with school leaving certificate for appointing him as sweeper which was rejected by the Regional Office of Bank of Baroda and was communicated to the Branch Office by the Chief Manager vide letter dated 16.04.1994. Thereafter, on 28.07.1994, Assistant General Manager of the Regional Branch of Bank of Baroda again informed the branch denying regularisation of the service of the second party workman. All these documents are submitted by the workman vide list Ex. 13.

4. On the basis of the pleading, the following issues arise:

- I. Whether the action of the management of Bank of Baroda, Ahmedabad is justified in terminating the services of Shri Vijaykumar Babu Jamadar, Sweeper instead of regularising his service w.e.f. 06.12.1996?
- II. To what relief, if any, the workman Vijaykumar Babu Jamadar is entitled?

5. **Issue No. I and II:** Both these issues are interrelated and are therefore, decided together. The burden of prove of these issues lie on the second party workman who vide his examination Ex. 14 reiterated all the averments made in the statement of claim. In his cross-examination, he has failed to prove that he was appointed as a regular sweeper by the bank and his services were terminated without notice.

6. The first party examined Priyakumar B., Senior Manager (HRM) of the Bank of Baroda and in his examination, Priyakumar B. reiterated the averments made in the written statement Ex. 10 but she did not turn up for cross-examination and the advocate for the first party did not press his examination and submitted another affidavit of Neelam Shah, Manager (HRM) Ex. 20 who also reiterated the averments made in the written statement Ex. 10. In her cross-examination, she has admitted that the work of sweeping/sweeper is of permanent nature. Presently permanent or regular sweeper has been appointed and has been working in the branch but she did not know the date of his appointment. The letter Ex. 21 which is a certificate of the working days of the second party workman in the branch was issued by the Branch Manager which is exhibited at Ex. 21. She cannot comment regarding the working of the workman as he was relieved prior to her joining as Manager (HRM) of the first party bank.

7. On the basis of the oral or documentary evidences of both the parties, it is an admitted fact that the second party workman was a part time sweeper. He worked for total 2612 days from the year 1984 to 1993 and he was removed in the year 1996. His request for regularisation was rejected by the bank without giving the reasons as to why he was not regularised even after working for more than 240 days in most of the calendar years from 1984 to 1996. Thus the summarily removal from service though as part time sweeper without giving any reasons is arbitrary. But as appears from the evidence of the first party, a regular sweeper has been appointed, therefore, in the absence of clear sanctioned vacancy, the second party workman cannot be ordered to be reinstated, however, an adequate amount of Rs. 100000/- as retrenchment compensation deserved to be awarded. Thus both the issues are decided accordingly.

8. The first party bank is ordered to pay Rs. 100000/- as retrenchment compensation to the second party workman within 60 days from the publication of the award.

9. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 9 फरवरी, 2018

का.आ. 321.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मुम्बई पोर्ट ट्रस्ट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक

अधिकरण/श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ सं. 78/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.02.2018 को प्राप्त हुआ था।

[सं. एल-31011/17/2003-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 9th February, 2018

S.O. 321.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 78/2003) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai as shown, in the Annexure in the Industrial Dispute between the management of Mumbai Port Trust and their workmen, received by the Central Government on 09.02.2018.

[No. L-31011/17/2003-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT : M.V. DESHPANDE, Presiding Officer

REFERENCE NO.CGIT-2/78 of 2003

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

MUMBAI PORT TRUST

The Chairman,
Mumbai Port Trust,
Port Bhavan, Ballard Estate,
Mumbai – 400 038.

AND

THEIR WORKMEN

The President,
Transport and Dock Workers Union,
P.D'Mello Bhawan
Carnac Bunder,
Mumbai – 400 038.

APPEARANCES :

FOR THE EMPLOYER : Mr. Umesh Nabar, Advocate

FOR THE WORKMEN : Mr. Abhay Kulkarni, Advocate

Mumbai, dated the 27th November, 2017

AWARD

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour & Employment, New Delhi vide its order No. L-31011/17/2003 – IR (B-II) dated 28.10.2003. The terms of reference given in the schedule are as follows :

“Whether the action of the Management of Mumbai Port Trust to deny seniority in the cadre of Tally Clerks to the adhoc promotes from Class IV employees is justified ? If not, what relief these 47 Tally Clerks are entitled to ??”

2. After the receipt of the reference, both the parties were served with the notices. They appeared through their respective representatives.

3. Second party workmen filed statement of claim Ex.7. According to the second party workmen, on 7.7.94, the first party issued circular bearing No. LSH/10-317/993 of 1994-95 inviting the application from Class-IV employees for the post of Tally Clerks [Temporary] in the Docks Department. In response to the said circular about 370 class IV employees applied for the said post. A written examination was conducted and successful candidates were called for

an oral interview by way of circular No. LSH/10-L-1/2237 of 1994 – 95. Out of 77 successful candidates, 10 candidates preferred to remain their original departments, 20 were promoted as Tally Clerks w.e.f. 10.7.95 and about 47 were promoted on 12.2.96 on adhoc basis till 31.7.96. The employees who were appointed on adhoc basis were continued on the posts of Tally Clerks. They were continuously working on the said post of Tally clerks since 12.2.96 without any break. They have been performing the duty of Tally Clerks and have been paid salaries and allowances as per the post of Tally Clerks. However, they have not been confirmed on the said post of Tally Clerks.

4. It is also the case of the concerned workmen that since there was short of Tally Clerks, first party appointed 250 Tally Clerks in 1997-98. Out of these 250 persons appointed, 200 were direct recruits and 50 were promoted from class IV category after having passing written tests and interview. The 50 employees who were promoted from class IV to the post of Tally Clerks were appointed as confirmed despite the fact that the earlier appointments had been made on adhoc basis and were yet to be confirmed. The Tally Clerks who were promoted from class IV on 12.2.96 are senior to the Tally Clerks who were appointed in 1997-98. The first party has treated promoted employees as junior to the employees directly recruited. Prior to appointing Tally Clerks in 1997-98, those appointed in 1996 ought to have been confirmed especially since there were vacant posts of Tally Clerks. The Tally Clerks who were appointed on 12.2.96 have been kept as adhoc from 1996 till date despite the fact Regulation 32 of BPT Employees (RSP) Regulation 1977, does not allow for adhoc appointments except in cases of immediate necessity and only for the period of 6 months with prior approval of the Chairman.

5. According to the concerned workmen, the action of the first party in not confirming the employees who were promoted as Tally Clerks in 1996 is contrary to Regulation 32 of BPT Employees (RSP) Regulation 1977 and therefore illegal.

6. It is also the contention of the second party that all the 47 workmen concerned in the reference were promoted on 22.6.2011 in Clerk Grade-II. However, the said 47 workmen along with 250 workmen who have been impleaded in this reference are forced to perform work of Tally Clerks also. A group of 37 Tally Clerks who are also impleaded in this reference are not compelled to perform the said work of Tally Clerks after their promotions in Grade-II. The said 37 class IV employees' name appeared in Tally Clerks Rota in October 1998 for few months, where after they started drawing the pay of Tally Clerks. The said 37 class -IV employees did not undergo any selection process for the post of Tally Clerks including written test, interview, placement in selected list etc. in accordance with the recruitment Regulation for the post of Tally Clerks in MbPT. The said 37 class IV employees were engaged to operate computers of their volition without holding any class-III post in MbPT. In case of said 37 employees MbPT even did not issue letters that their promotions are on adhoc basis. In the seniority list, said 37 employees were shown senior to the aforesaid 20 appointed Tally Clerks in July 1995. All other workmen i.e. the aforesaid 20 workmen, 47 workmen on whose behalf this industrial dispute is raised and also 250 workmen even after have not passed the qualifying selection criteria for the post of Tally Clerks were shown junior to said 37 employees in the seniority list.

7. Being aggrieved by the said seniority list, the said 20 employees raised industrial dispute before CGIT No. II, Mumbai. In the written statement filed by the MbPT therein, the MbPT pleaded that the said 37 employees were adhoc promotees and it is well settled principle of law that the said adhoc promotees must be regularized from their initial appointments and that the respondent has acted with well settled principle of law. The aforesaid reference is answered in favour of said 20 employees and 37 workmen have challenged the said award before the Hon'ble Bombay High Court. The Hon'ble Bombay High Court has virtually held that purported promotions to the said 37 employees is illegal because they were not subjected to the selection criteria applicable for the promotions. It is thus contention of the concerned workmen that all the 47 workmen concerned in the reference successfully completed selection criteria along with 20 workmen and hence they are entitled to be placed below the said 20 workmen who had raised the industrial dispute in respect of which tribunal has passed the award.

8. It is then contention of the concerned workmen that said 47 workmen were promoted as Tally Clerks on and from 12.2.96. The group of 250 workmen [200 direct recruits and 50 promotees impleaded in the reference] were also promoted on and from 29.12.97. The said group of 37 employees were illegally promoted on and from 10.11.98. The said 37 employees are junior to 47 workmen concerned in this regard. Thus the said 47 workmen concerned in this reference are entitled to be placed below 20 workmen promoted on and from 10.7.95. It is therefore necessary to set aside and quash all seniority lists issued after 1998 and place the said group of 250 workmen as well as group for 37 workmen below 47 workmen concerned in the reference.

9. According to the concerned workmen, circular dated 20.11.1997 issued by the Manager (SOM) being circular No. SECY/P/GEE-G/SCT/ 17587 states that the promotions which were effected from 2.7.97 are to be treated as provisional since certain clarifications were being sought from the government. The Tally Clerks who were appointed on 12.2.96 and who have been working continuously since then are not covered under the said circular and are therefore required to be confirmed on their posts of Tally Clerks w.e.f. 12.2.96. Second party therefore addressed letter dated 6.1.98 to Traffic Manager of the first party calling upon the first party to regularize the promoted employees on the posts of Tally Clerks and further fix their seniority. A letter dated 23.12.98 came to be written on behalf of second

party union to the Traffic Manager of the first party. Another letter was addressed on 6.10.2000 in the same record. Thereafter discussions were held between the office bearers of second party union and officers of first party. Second party addressed a letter dt. 3.11.2001 to the Manager placing on record the arguments of the second party union. First party replied to the said letter by way of letter dated 21.3.02 in which the stand of the first party was that class IV employees were appointed to 20% of the post and the seniority will be determined differently for the promoted employees and direct recruits. The second party therefore raised the demand dated 3.4.2002 with RLC on the ground that the seniority cannot be determined directly for promoted and directly recruited employees and that the RSP Regulations while fixing 20% as quota for the promotional candidates do not mandate that seniority be fixed differently for the employees who were promoted and those who were directly recruited. Conciliation failed and therefore RLC referred the adjudication to this tribunal. The second party is therefore asking to direct the first party to prepare the fresh seniority list taking into account the total completed services of Tally Clerks in the first party. They are also asking to prepare the seniority list placing all the 47 concerned workmen below the 20 workmen promoted on and from 10.7.95 and place all other workmen in the group of 250 recruits and promotees appointed as Tally Clerks on and from 29.12.97 and group of 37 workmen promoted on and from 11.10.98 as Tally Clerks below 47 workmen concerned in this reference with further directions to MbPT to grant all consequential promotions with retrospective effect superseding promotions of said 250 direct recruits and promotees and also group of 37 workmen promoted to Clerk Grade-II on and from 8.7.07 and then direct MbPT to pay arrears of wages, allowances and benefits from the date of promotions from retrospective effect in prayer (b) to the above 47 workmen whose list is produced at Ex.B.

10. First party management resisted the claim by filing written statement Ex.11. It is the contention of the first party that claim of the second party union is not maintainable in law as much as the second party union is seeking the seniority of Tally Clerks above the Tally Clerks who are appointed on the basis of their selection to the post on clear vacancies, though the Tally Clerks concerned in the above reference were appointed on adhoc basis who at the time of appointment accepted the contention that they will not claim such adhoc appointment as regular appointment and continuance on the post on which they were appointed after six months.

11. It is also the contention of the first party that second party union is estopped from raising any dispute on behalf of the Tally Clerks concerned in the reference who had knowledge at the time of appointment as Tally Clerks that they would be junior to the Tally Clerks appointed on regular basis on selection.

12. It is also a case of the first party that in July 1994 applications were invited from class IV male employees to fill up the promotee quota of 20% posts of the Tally Clerks. About 370 employees applied for the said 20 vacant posts. Out of which 281 employees appeared for written test on 4.9.94. In written examination only 77 employees passed the written test and they were interviewed on the appointment of vacant posts. In interview the selected 20 employees were given seniority. 17 employees were given seniority w.e.f. 10.7.95 and 3 employees were given seniority w.e.f. 1.9.95. These 20 candidates accepted categorically at the time of their appointment that they shall rank junior to all the Tally Clerks then on the muster roll of the first party. The rest 47 candidates who passed the test and could not be appointed on the post of Tally Clerks for want of vacancies in promotee quota were appointed purely on adhoc basis for the period of six months w.e.f. 1.2.96 to 31.7.96. The Tally Clerks so appointed on adhoc basis were informed that due to adhoc nature of their appointment, they will have no claim for the continuance on the post after completion of their period of six months and the condition quoted below in the letter of appointment on adhoc basis was specifically accepted by the appointees before their appointment and therefore the employees concerned in the above reference could not have been confirmed on the post hold by them for want of vacancies in the promotees quota.

13. It is also a case of the first party that about 250 vacancies of Tally Clerks were advertised in the month of February 1997 and the written test held on 8.6.97. The successful candidates were interviewed between the periods of 25.8.97 to 6.10.97. Thereafter the regular appointments of the impaneled candidates to direct recruit quota of the posts of Tally Clerks commenced in the month of November 1997 and requisite number of candidates including reserve category candidates were appointed to direct recruit quota post of the Tally Clerks. As per the ratio of direct recruits and promotees the number of posts of Tally Clerks in direct recruits and promotees was maintained and out of 47 Tally Clerks appointed on adhoc basis, 45 Tally Clerks were continued on adhoc basis by competent section. Out of 45 appointees one employee got reverted and one was selected as Typist-cum-Computer Clerk. Therefore the adhoc appointees who were already made aware at the time of their appointment that the posts which would be held by them are not clear vacancies and they are not entitled to raise the contention in this respect since the appointments made in the year 1997 were in clear vacancies.

14. It is also a case of the first party that as per the availability of clear vacancies in the posts of Tally Clerks in promotee quota, appointment of 16 out of 45 Tally Clerks were regularized w.e.f. 13.3.99 and the seniority of these 16 employees above the seniority of employees recruited from direct quota from November 1997 cannot be considered. Two more adhoc appointees were regularized on 9.9.2002 and 7.10.2002 and remaining 27 candidates are not regularized for want of clear vacancy in promotee quota. Since regularization is on-going process, the remaining 27 candidates can be considered only when the regular vacancies of promotees became available and therefore relief

sought for by the concerned second party union is not acceptable. First party has thus sought the dismissal of the reference.

15. The added second party workmen appointed directly in the post of Tally Clerks filed written statement Ex.41 contending therein that seniority list of the Tally Clerks declared by the first party in the year 2002 refers to the seniority pertaining to the reference. The said seniority list was in order to accept the inclusion of 37 persons who were shown as promoted from the post of class – IV employees in the category of Shore workers /Mazdoor, messenger etc. in the post of Tally Clerks. The names of those 37 persons who have been shown as promoted and included in the seniority list of Tally Clerks pertaining to the year 2002 need to be removed from the said seniority list for the reason that these 37 class – IV employees in the category of shore workers were not at all promoted to the post of Tally Clerks after following the procedure laid down in statutory service Regulations. In any case the adhoc 47 promotees cannot claim seniority over added second party directly appointed in the post of Tally Clerks who have been regularly appointed in the post of Tally Clerks.

16. The second party No. 280 filed written statement Ex.42 contending therein that in all 37 second party employees were appointed around 1983 to 1989 in class – IV category and were later promoted as A – category mazdoors w.e.f. 1.12.1991. They were eligible to be promoted and appointed as computer clerks since they have passed SSC which is a requisite qualification for the post. The said post of computer clerks falls in class – III and is a promotional post for class – IV employees. In October 1992, the first party published a notice and invited applications from A – category mazdoors for selection and appointment as computer clerks. The second party workers were amongst the once selected and appointed as computer clerks. They were imparted a training and on completion of the same, were issued certificates in computer proficiency. They were then appointed as computer clerks w.e.f. 31.12.1992. But since they were paid as mazdoors, they raised protest through union and Chairman of the first party then appointed a committee for regular selection of second party. The said committee selected second party herein as regular Tally / computer clerks and they were therefore appointed w.e.f. 1.1.95 there on vacant sanctioned post of computer clerks and hence they were entitled to all the benefits of regular computer clerks like seniority, pay scale etc. w.e.f. 1.1.95.

17. It is also the contention of the added 37 employees that among 77 who had passed written tests, 20 were already appointed and 10 workers opted the same department. The remaining 47 employees i.e. the employees concerned with the reference were promoted as computer clerks on adhoc basis w.e.f. 12.2.96 for the period of six months. Their promotion was on adhoc basis since there were no vacant sanctioned posts to accommodate them. They were continued beyond the period of initial appointment on six months on the request of the union.

18. As regards the appointment of 250 Tally Clerks, it is contention of the added second party 37 workmen that their appointment is after the regularization of the added second party workmen. The said 250 Tally Clerks are junior to them, as such the demand raised by the concerned workmen is raised very belatedly and the dispute has become stale. Hence the reference has also become infructuous. As such the second party workmen content that 47 workers on whose instant dispute is raised are not entitled to rank senior to added second party workers. They were adhoc workers and their regular promotion came much later. Their services as an adhoc cannot be considered for the purpose of seniority over the added second party workmen. The 250 subsequently promoted workers should also rank below herein the second party workers. As such the disputant second party workers are not entitled to relief claimed and the reference is liable to be rejected.

19. The second party No. 252, 253, 255 to 257, 259 to 262, 264 to 266, 268 to 271, 274 to 276, 278, 284, 285 and 286 have filed pursis and adopted the written statement of second party No. 280.

20. On 19.10.11 this tribunal has passed award and rejected the reference. Thereafter being aggrieved by the said award, union filed WP No. 797 of 2012 in the Hon'ble Bombay High Court and writ petition is allowed directing the union to make the 250 Tally Clerks as parties to the reference and further directions are given to this tribunal to adjudicate upon the reference on merits of the case.

21. Following issues are framed at Ex.13. I reproduce the issues along with my findings thereon for the reasons to follow:

Sr. No.	Issues	Findings
1	Whether the action of the Management in denying seniority in the cadre of Tally Clerks to the adhoc promotees from class IV employees working as Computer Clerks is legal and justified ?	Yes
2.	Whether relief 47 Tally Clerks, 2 nd Party is entitled to get ?	No
3.	What Order ?	As per final order

REASONS

Issue No.1 & 2

22. In the case at hand, the fact is not disputed that in response to the circular of 1994 – 95, 370 class IV employees applied for the post of Tally Clerks. Written examination was conducted and successful candidates were called for oral interview. Out of 370 candidates, 77 have passed the written examination and 20 candidates were found eligible and they were promoted as Tally Clerks w.e.f. 10.7.95. It is also undisputed that 47 candidates i.e. the workmen under reference were promoted on 12.2.96 on adhoc basis till 31.7.96 and they were continued on the post of Tally Clerks till 12.2.96 without any break. However, they have not been confirmed on the post of said Tally Clerks.

23. Now the issue to be decided is whether the action of management of MbPT to deny seniority in the cadre of Tally Clerks to these 47 candidates on the ground that they were appointed on adhoc basis and as such they cannot claim such appointment as regular appointment and continuance on the post on which they were initially appointed for six months. The issue is also in respect whether the adhoc services can be considered for the purpose of seniority.

24. So far legal position is concerned, it is well settled position that the jurisdiction of tribunal in industrial disputes is limited to the points specifically referred to its adjudication and to matter incidental thereto and tribunal cannot go beyond the terms of reference. Where the very terms of reference shows that the point of dispute between parties was not in respect of date of regularization or change in the date of regularization then the question is whether second party can claim seniority prior to or interior to the actual date of seniority given to them in the seniority list. But then the fact remains that the tribunal jurisdiction emanates from the order of reference and so far order of reference is concerned, it is in respect of seniority to the adhoc promotees from class – IV employees in the cadre of Tally Clerks which is denied by the management.

25. Learned Counsel for the original second party i.e. concerned employees submits that these 47 employees on whose behalf the union has raised the dispute are being selected through mandatory selection along with 20 candidates who were found eligible and selected for the post of Tally Clerks. Submission is to the effect that the employees under the reference though appointed on adhoc basis were continued on the post of Tally Clerks without any break. They have been performing the duties of Tally Clerks and have been paid the salaries and allowances as per the post of Tally Clerks and therefore they should have been confirmed by the management in the cadre of Tally Clerks in view of Regulation 32 of BPT Employees (RSP) Regulation 1977 since as per settled position of law the employees cannot be treated as adhoc for long period and need to be regularized. In short it is the submission of Learned Counsel for the second party i.e. concerned employees that the concerned employees should have been treated regularized from the initial appointment because the said group of employees is selected by regular selection process.

26. In the context, the Learned Counsel for the second party i.e. concerned employees seeks to rely on the decision in case of Direct Recruits Class II Engineering Officers Association V/S. State of Maharashtra, AIR 1990, 1607. In that case the question of seniority and promotion of direct recruits and promotees was under consideration and it is held by the Hon'ble Apex Court that the period of continuance officiation by government servant after his appointment by following the rules applicable for substantive appointment has to be taken into account for determining his seniority and the seniority cannot be determined on the sole test of confirmation, for, confirmation is one of the inglorious, uncertainties on government services depending neither on efficiency of the incumbent nor on the availability of substantive vacancies. If an appointment is made by way of stop gap arrangement without considering the claims of all the eligible available persons and without following the rules of appointment, the experience on such appointments cannot be equated with the experience of regular appointees because of the qualitative difference in the appointment but if the appointment is made after considering claims of all the eligible candidates and the appointees continues in the post uninterruptedly till the regularization of his service in accordance with the rules made for the regular substantive appointment, there is no reasons to exclude officiating service for the purpose of seniority.

27. So far as facts in the present case are concerned, second party i.e. concerned employees were promoted on adhoc basis. They could not be appointed on the basis of Tally Clerks for the want of vacancies in promotee quota and were appointed purely on adhoc basis for the period of six months. They were already informed that due to adhoc nature of their appointment they will have no claim for continuance on the post after completion of period of six months and it is also a case of the management that the condition was quoted below the letter of appointment specifically which was accepted by them at the time of their initial appointment for six months on adhoc basis. So once it is admitted that initial appointment is only on adhoc basis and not according to the rules and made as stop gap arrangement, corollary of the rule in respect of appointment is that where the initial appointment is only adhoc and not according to the rules the officiation in such posts cannot be taken into account for considering the seniority. If the initial appointment is made by following the procedure laid down by the rules and the appointee continues in the post uninterruptedly till regularization of his service then the period of officiating service will be counted. Since the initial appointment of the workmen concerned is admittedly on adhoc basis as stop gap arrangement then the continuance in the said post of Tally Clerks cannot be taken into account for considering the seniority. In the context also the reliance

can be placed on the decision in case of Direct Recruits Class II Engineering Officers Association V/S. State of Maharashtra cited supra.

28. As a matter of fact, by way of this reference the second party i.e. concerned employees have challenged seniority list of the Tally Clerks of the year 2002 i.e. the seniority list dated 1.12.02 which is at Ex.50. In the said seniority list there was inclusion of 37 Class IV employees appointed in the post of Tally Clerks i.e. second party No.3. So far inclusion of second party No.3 i.e. 37 Class IV employees appointed in the post of Tally Clerks, it is made clear that their seniority above the 20 workmen who came to be promoted w.e.f. 10.7.95 is declared illegal as per award in reference No. CGIT-2/54 of 2002. On going through this award, it is clear that second party No.3, 37 workers were appointed from class IV Mazdoor cadre. Neither their applications were invited to face examination nor they were interviewed and even according to first party management they were appointed as Tally Clerks on adhoc basis without following recruitment rules and procedure. In view of that it is observed in the said award No. CGIT-2/54 of 2002 that 37 workers i.e. second party No.3 who were promoted on adhoc basis cannot be given seniority on the above these 20 workmen who were promoted after following due procedure and promotional rules. In view of that as per award No. CGIT-2/54 of 2002, 20 workmen who had filed this reference are held entitled to get seniority above these 37 workers whose seniority is declared illegal, null & void. It can be observed therefore that the selection procedure is provided in the rules which is mandatory and since the second party No.3, 37 groups of employees were never selected subjected to suitability criteria of written test, interviews and medical, their seniority in the said list of 2002 is held illegal by this tribunal.

29. That apart, in seniority list of 1996 the names of group of 20 workmen are shown at Sr. No. 323 to 342 and names of workmen concerned in the reference are also shown from 343 to 398 but thereafter in the seniority list of 1997, names of workmen in the group of 20 are shown in seniority list from Sr. No. 292 to 310 and from Sr. No. 311 to 350, the names of workmen concerned in the reference are shown. Thereafter in the seniority of the year 1998, names of workmen in the group of 20 are shown in seniority list from Sr. No. 149 to 166 but in the year 2000, the group of 37 workmen, second party No.3 was shown at Sr. No. 52 to 87 and names of group of 20 workmen was shown at Sr. No. 88 to 105. That seniority list is challenged and then it is held as per award in that reference No. CGIT-2/54 of 2002 that 20 workmen under the said reference are entitled to get seniority above these 37 workers i.e. second party No. 3.

30. Now it is the case of second party No.1 i.e. group of concerned 47 workmen that 250 candidates were appointed in the post of Tally Clerks as direct recruits in December 1997 whereas group of 47 workmen i.e. workmen under reference were promoted in February 1996 therefore they are senior to 250 group of workmen and ought to have been placed above the said group in the seniority list of Tally Clerks. In this respect it will have to be said that the reference order is confined to the industrial dispute as to whether the action of the management in denying the seniority in the cadre of Tally Clerks to the adhoc promotees from class IV employees is justified or not. Obviously, it is not schedule of reference. Whether these 250 candidates who came to be appointed in 1997 are junior to the group of 47 workmen under reference. This pointed is certainly beyond scope of reference and any award passed by the tribunal in excess of his jurisdiction i.e. beyond scope of interference is without jurisdiction since the tribunal cannot go beyond the terms of the reference.

31. Even otherwise, it has come on record that these 47 Tally Clerks have been regularly appointed in the post of Tally Clerks reserved for the departmental candidates as and when vacancies arose. They have been promoted subsequently to higher post and they have duly accepted their promotion without any practice. The seniority list of the employees is invited by the first party from time to time and it appears that the service of many of the employees from group of 47 employees were regularized in the post of Tally Clerks as and when vacancies meant for 20% promotional quota of departmental candidates and that seniority list has not been challenged in this reference. So far as order of reference is concerned, it only relates to the seniority list of the year 2002 in the cadre of Tally Clerks whereby the management has denied the seniority of the group of these 47 workmen on the ground that they came to be appointed on adhoc basis as stop gap arrangement. This action of the management in denying the seniority in the cadre of Tally Clerks to these group of 47 workmen who came to be appointed initially on adhoc basis as stop gap arrangement is legal and justified. For the above reasons I find that these 47 Tally Clerks concerned in the reference are not entitled to get relief in respect of seniority claimed by them. Issue No. 1 & 2 are therefore answered accordingly as indicated against each of them in terms of above observations.

Issue No. 3

32. In view of my findings to above Issues, the reference is liable to be rejected. Hence order.

ORDER

Reference is rejected with no order as to costs.

Date: 27.11.2017

M. V. DESHPANDE, Presiding Officer

नई दिल्ली, 9 फरवरी, 2018

का.आ. 322.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन ओवरसीज बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद (गुजरात) के पंचाट (संदर्भ सं. 1277/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.02.2018 को प्राप्त हुआ था।

[सं. एल-12012/172/1998-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 9th February, 2018

S.O. 322.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1277/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the Industrial Dispute between the management of Indian Overseas Bank and their workmen, received by the Central Government on 09.02.2018.

[No. L-12012/172/1998-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 18th January, 2018

Reference: (CGITA) No. 1277/2004

The Regional Manager,
Indian Overseas Bank,
6th Floor, Siving, Maunbai Tower,
Sayajigunj,
Baroda (Gujarat) – 390005

...First Party

V/s

Smt. Alpaben Mohanbhai Ahir,
At Post Kalwada, Taluka
Valsad (Gujarat)

...Second Party

For the First Party : Shri J.B. Zariwala

For the Second Party : Shri C.R. Chaudhary

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/172/98-IR(B-II) dated 05/08.03.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Indian Overseas Bank through its officers in terminating/discontinuing the services of Smt. Alpaben Mohanbhai Ahir as ‘Part Time Sweeper’ at the Valsad Branch w.e.f. 17.09.1997 is justified, valid and legal? If not, what benefits/relief, the work-woman Smt. Alpaben Mohanbhai Ahir is entitled to and what other directions are necessary in the matter?”

1. The reference dates back to 05/08.03.1999. The second party work-woman Smt. Alpaben Mohanbhai Ahir, hereinafter referred to as “second party” submitted the statement of claim Ex. 7 alleging that she had been working as Part Time Sweeper in the first party Indian Overseas Bank, 1st Floor, Aditya Chambers, Valsad, hereinafter referred to

as "first party" since 3 months of the opening of the branch of the bank. She have to carry out the work of sweeping, cleaning of furniture, entrance and all the places of braches of the bank besides filling of water and to serve water to all the employees of the bank. She has further alleged that she was also asked to work as peon as no peon was posted in the branch for which she was paid Rs. 10/- extra to the regular daily wages. She has to collect the water from the Petrol Pump situated opposite side of the branch. She has further alleged that initially she was paid Rs. 10/- per day as wages paid on the monthly basis which was raised to Rs. 20/- per day from the month of June, 1996. The said wages were credit in her Account No. 614 with Ledger Folio No. 60/7 opened in the same branch after signing the vouchers, copy of the vouchers were always given to him. In the year 1996-97, she was also paid Rs. 100/- as bonus. The work was perineal and continuous in nature and she served for more than 240 days in each and every year with all sincerity and honesty. Thus she alleged herself to be a permanent employee. Suddenly on 17.09.1997, her services were orally terminated and she was not paid wages of the last month of the termination of service and she has further alleged that after her termination, a new person Kantibhai Patel was illegally appointed violating all the service rules. Thus her termination of service was illegal, unjust and against the principles of natural justice and she has prayed to declare her termination of service as illegal, unjust and against the principles of natural justice and also prayed for reinstatement of service with continuity of service and consequential benefits.

2. The first party submitted the written statement Ex. 14 denying any illegality in the termination of service of the work-woman submitting that the second party was not a work-woman with in the definition of the work-woman given in the Industrial Disputes Act. She has no right to be appointed and absorbed as a permanent work-woman and does not have right for re-employment in view of the Section 25 H of the Industrial Disputes Act. It is wrong to say that the second party joined the service as part time sweeper after 3 months from the opening of the branch of the first party. The truth is that the second party was taken on work on daily wage basis for cleaning and sweeping of the branch premises and also storing water for the daily use of the bank's staff. Wages were calculated on daily wage basis and were paid to her at the end of each month. It is wrong to say that she was also taken work of a peon and she was never paid Rs. 10/- extra for such work. She was never paid Rs. 100/- as bonus. It is also wrong to say that she worked continuously and regularly. The work was also not of perennial and permanent nature. It is further submitted that the bank is government by the Central Government Guidelines issued from time to time besides by-partite settlement executed between the bank and employees' union, therefore, permanent vacancies were to be filled up only by way of calling list of candidates from the employment exchange as per the said procedure and as an emergency, the second party was appointed on daily wage basis and was removed after appointing Kantibhai Patel by way of said procedure of calling the names from the employment exchange. Her termination of service cannot be said to be arbitrary and unjust. Thus the prayer sought by the second party work-woman is liable to be rejected.

3. In support of the statement of claim, the second party submitted the documents vide list Ex. 12 & 17 and the first party submitted the documents vide list Ex. 19.

4. On the basis of the pleading, following issues arise:

- i. Whether the action of the management of Indian Overseas Bank through its officers in terminating/discontinuing the services of Smt. Alpaben Mohanbhai Ahir as 'Part Time Sweeper' at the Valsad Branch w.e.f. 17.09.1997 is justified, valid and legal?
- ii. If not, to what benefits/relief, the work-woman Smt. AlpabenMohanbhaiAhir is entitled and what other directions are necessary in the matter?

5. **Issues No. i and ii:** Both the issues are interrelated, therefore, are decided together. The burden of prove of these issues was on the second party work-woman who has filed his affidavit Ex. 23 reiterating the averments made in the statement of claim Ex. 7. In her cross-examination, she has stated that she had been doing work of peon from 09:00 AM to 03:00 PM and for doing the extra work of peon, she was paid wages of Rs. 10/- extra per day besides the wages of Rs. 10/- being paid as a sweeper. The said salary was always deposited in her account. She performed her duties for 4 years. Her qualification is 7th passed and her name was registered in the employment exchange. The said letter is 12/1 Ex. 28 and 29. She was given certificate by the Branch Manager of the bank stating that she had worked as a casual sweeper in the bank for the year 1994 to 1997. She has also stated that she belongs to the schedule caste, the certificate of the same is Ex. 30 issued by the Executive Magistrate, Valsad and school leaving certificate is Ex. 31. She has further stated in her cross-examination that her services were terminated orally without serving notice and paying retrenchment pay. She tried to seek service circular but did not get it. She has further stated that there are 2 peons in the branch of the bank namely Maheshbhai and Mullabhai. No regular sweeper was appointed at that point of time. The work of peon was performed by regular peon. Whenever the peons are absent, she used to do extra work of peon for which she was paid extra wages. Later, the bank appointed Kantibhai for the work which she was performing. She was removed after appointment of Kantibhai as sweeper. It is wrong to say that she did not work for more than 240 days in any calendar year. She is/was not aware of any advertisement being published in the newspaper for the filling of the post of sweeper in the branch of the bank.

6. The first party examined one Kishanbhai, the Manager of the branch, reiterating the averments made in the written statement Ex. 14 stating that in the year 1994, there were total 6 persons in the branch inclusive of 3 clerks, 2 peons and 1 Manager. The duties of the peons and sweeper were different. At the opening of the branch, there was no sweeper and filling of that post was in process. The said transition period, the service of a sweeper was taken on daily wage basis through the second party work-woman Alpaben Mohanbhai Ahir. No work of peon was taken from the second party as there were 2 regular peons working in the branch. The guidelines for the appointment of the post of sweeper were advertised as per the bank's guidelines which is at paper 38/1 Ex. 40 with a eligibility of age between 18 to 40 and not having the educational qualification of more than 5th standard. The application of Alpaben Mohanbhai Ahir was received which was sent to the Regional Office of the bank which attached at Ex. 41. The application of Alpaben Mohanbhai Ahir was dated 10.03.1997 produced at Ex. 29 was received by the bank. The application was enclosed with the caste and school leaving certificate Ex. 30 and 31 showing that she was educated up to the 7th standard. The said application was rejected by the Regional Office as per the bank norms produced at Ex. 40 on the grounds that she was over educated. The first party invited the application for the post of sweeper from the employment exchange and selected the successful candidate vide paper Ex. 42. Kantibhai Patel was one of the selected candidates for the post of sweeper. The appointment letter of Kantibhai Patel is at Ex. 43. On the appointment of Kantibhai Patel, the second party was asked not to report for duty. He has not stated anything contrary in his cross-examination.

7. I considered the written arguments of both the parties and oral as well as documentary evidence of both the parties.

8. This is admitted fact by both the parties that the second party Alpaben Mohanbhai Ahir was appointed as Part Time Sweeper at the daily wages of Rs. 10/- per day at the time of the opening of the new branch of the bank in the year 1994. She did work as Part Time Sweeper in the year from 1994 to 1997. It is also admitted that she also performs duty of peon as and when the regular peons have been on leave. It is also admitted by the first party that she moved an application for appointment as a regular sweeper but her application was not favourably considered as she was having the education qualification of 7th standard passed which was more than the qualification required for the said post i.e. more than 5th standard and after rejection of her application, the post was filled up through employment exchange. The rejection is laughable because there is hardly any difference in the qualification between 5th and 7th standard. The rejection on such a petty ground cannot be said to be reasonable, just and legal in the case where a daily wager has worked for 4 years. This is also gender discrimination and it is also quite possible that the appointment would have been made on the basis of whims. The Regional Office would have easily taken approval from the appropriate authorities regarding the waiver of the educational qualification.

9. The first party has not given any plausible reasons as to why the appointment of this second party work-woman was not favourably considered in the circumstances that she served the bank for 4 years.

10. The second party work-woman as appears from the record that she was 38 years old on 18.02.2003 when she submitted her affidavit Ex. 23 and now in the year 2018, she shall be 53 years old. It is also noteworthy that now appointment at the age of 53 years would not be equitable and just, therefore, as admitted, she was terminated orally without any retrenchment pay, therefore, a lump-sum amount of Rs. 100000/- as retrenchment compensation would be justified to be paid.

11. Both the issues i and ii are decided accordingly. The retrenchment compensation shall be paid within 60 days from the date of publication of this award.

12. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 9 फरवरी, 2018

का.आ. 323.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कांदला पोर्ट ट्रस्ट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद (गुजरात) के पंचाट (संदर्भ सं. 166/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.02.2018 को प्राप्त हुआ था।

[सं. एल-37011/1/2006-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 9th February, 2018

S.O. 323.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 166/2006) of the Central Government Industrial Tribunal-cum-

Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the Industrial Dispute between the management of Kandla Port Trust and their workmen, received by the Central Government on 09.02.2018.

[No. L-37011/1/2006-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 23rd January, 2018

Reference: (CGITA) No. 166/2006

The Chairman,
Kandla Port Trust,
Administrative Office, Post Box No. 50,
Gandhidham,
Kutch (Gujarat)

...First Party

V/s

The General Secretary,
Transport & Dock Workers' Union,
21, Yogesh Building, Plot No. 586, 12-C,
Gandhidham,
Kutch (Gujarat)

...Second Party

For the First Party : Shri K.V. Gadlia
For the Second Party : Shri N.H. Rathod

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-37011/1/2006-IR(B-II) dated 04.09.2006 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDEULE

"Whether the demand of Transport & Dock Workers' Union, Kandla for payment of Ex-gratia or family pension to Smt. Shamabai widow of late Shri Narayan Hamir, Ex-Shore Worker who expired on 04.01.1977 while in service, is legal and justified? If yes, what relief the union is entitled to?"

1. The reference dates back to 04.09.2006. Both the parties were served notices. The second party submitted the statement of claim Ex. 10 on 17.06.2010 along with the vakalatpatra Ex. 7 and the first party did not prefer to submit the written statement despite filing the vakalatpatra of their advocate Shri K.V. Gadlia and others.
2. Shri Nirdosh H. Rathod, advocate for the second party filed his vakalatpatra Ex. 14 on 18.11.2013 and on 26.09.2017, he informed this tribunal that the workman has probably expired.
3. It is noteworthy that in the absence of the written statement of the first party, the reference was ordered to proceed ex-parte against the first party on 29.11.2016 but even after giving half a dozen of opportunities, the evidence was not lead by the second party.
4. Today on 23.01.2018, Shri Nirdosh H. Rathod, advocate for the second party, stated in writing that the workman has expired and his legal heirs do not want to proceed further.
5. Thus the reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 9 फरवरी, 2018

का.आ. 324.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूको बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, गुवाहाटी के पंचाट (संदर्भ सं. 01/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.02.2018 को प्राप्त हुआ था।

[सं. एल-12011/87/2015-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 9th February, 2018

S.O. 324.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 01/2016) of the Central Government Industrial Tribunal-cum-Labour Court, Guwahati as shown in the Annexure, in the Industrial Dispute between the management of UCO Bank and their workmen, received by the Central Government on 09.02.2018.

[No. L-12011/87/2015-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM

Present: Shri M.K. Bhattacharjee, M.A., LL.B.
Presiding Officer,
CGIT-cum-Labour Court, Guwahati.

Ref. Case No.01 of 2016

In the matter of an Industrial Dispute between :-

Workman represented by the State Secretary, UCO Bank Employees Association, North Eastern States' Council, UCO Bank, Guwahati	... Workmen
--	-------------

-Vrs-

The Management of UCO Bank Guwahati & 01 other	... Management
---	----------------

APPEARANCES :

For the Workman : Sri Pradip Kr.Sarma, State Secretary of the Union
For the Management : Mr. A.K.Machary, Dy. Zonal Head, UCO Bank

Date of Award : 6.12.2017

AWARD

1. This Reference has been initiated on an Industrial Dispute raised by the workmen represented by the UCO Bank Employees Association, North Eastern States' Council vide Ministry's Order No..L-12011/87/2015-IR(B-II), dated 21.12.2015 for adjudication. The schedule of this reference is as under :

SCHEDEULE

“(1) When it is established by the management since 1993 & rotation Transfer policies & practiced, thereafter that is should be done 2 times a year or in every six months this year. It is done for 3 times. Is it not a change of conditions of employment involving the provisions of Sect.9A.? If yes then, what relief the workman should get? (2) As per the management, the first transfer effected in the month of January, 2015 is a carry forward transfer of year 2014, whereas, in the Bank's rotational transfer policy. Is it permissible in the eye of law to carry forward such rotational transfer, if no then what relief the workmen should get?”

2. On receipt of the order from the Ministry of Labour, Government of India, New Delhi, this reference case was registered and notices were issued by Registered Post to the parties concerned directing them to appear before the Tribunal on the date fixed and to file their written statement along with the relevant documents in support of their claim.

3. Both the parties appeared and filed their respective claim statement and written statement.

4. The brief facts, as it appears from the claim statement filed by the Union Secretary is that the transfer Policy for Award staff members of the Bank is a standing order in regard to modalities of various categories of transfer of services of the Award Staff members and such modality of transfer is rotation transfer i.e. the management will effect the transfer of those clerical employees who have completed 5 years or more in a particular branch and such rotation transfer will be effected twice in a calendar year vide circular dated 10.3.1993. Subsequently the management made another order to transfer the services of some employees under the modality of rotation transfer vide notification dated 21.07.2015 which is the third process in a calendar year and in violation of the Bank's Standing Order dated 10.3.1993 and prayed that such action of the Bank was arbitrary and liable to be modified. Thereafter, the workmen side approached the competent authority on 24.07.2015 in writing and stated the "illegality" done by the management and prayed to withdraw the same but the management did not pay heed to it. Having no alternative the Union side approached the Regional Labour Commissioner (Central) but conciliation failed "due to management's adamant attitude". Thereafter the management issued another order of transfer to 10 employees, which was also "illegal order" and liable to be quashed. The Union also stated that considering the whole process of illegal and arbitrary nature of third time process of rotation transfer in one single year the workmen were denied justice in as much as it violated policy of rotational transfer and standing order of the bank. The Union therefore prayed to intervene in the matter and quash the illegal notification dated 23.7.2015 and all consequential action of management.

5. The management by filing written statement averred that the rotational transfer involves those clerical staff who have completed more than 5 years in a particular Branch and which is being made for the exigency on the administrative ground. The management also stated that prolonged posting in a particular Branch may affect the operation of the bank and such transfer is made basing upon the Govt. guidelines/CVC instruction for which they were unable to negotiate the matter with the Union and prayed to close the proceeding on the matter of rotational transfer in terms of Section 12(6) of I.D.Act.

6. After submission of the Claim Statement and Written Statement by the workmen side and the management side respectively, the matter was fixed for evidence of the workmen side on 19.04.2017. However despite giving several chances the workmen side did not adduce any evidence and on last 4 dates both sides were absent without any step. It may be mentioned here that several chances were given to the workmen side to adduce their evidence but they failed to do so. As a result of absence of the parties during the stage when the matter was posted for recording of evidence, this Tribunal is constrained to hold that the workmen sided has failed to substantiate the claim made by them in their Claim Statement.

7. In view of the above, this reference is disposed of with no relief Award because of absence of the workmen side.

Given under my hand and seal of this Court on this 06th day of December, 2017 at Guwahati.

M. K. BHATTACHARJEE, Presiding Officer

नई दिल्ली, 9 फरवरी, 2018

का.आ. 325.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ सं. 109/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.02.2018 को प्राप्त हुआ था।

[सं. एल-12011/17/2011-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 9th February, 2018

S.O. 325.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 109/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the Industrial Dispute between the management of Bank of India and their workmen, received by the Central Government on 09.02.2018.

[No. L-12011/17/2011-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW****PRESENT : RAKESH KUMAR, Presiding Officer****I.D. No. 109/2011**

Ref.No. L-12011/17/2011-IR(B-II) dated 19.07.2011

BETWEEN :

The General Secretary
 Bank of India Staff Union
 Mohini Mension, 1, Naval Kishore Road
 Lucknow (U.P.)

AND

1. The Dy. Zonal Manager/Zonal Manager
 Bank of India, Sandipani, STC Building
 B-32, Sector-62, Noida (U.P.)

AWARD

1 By order No. L-12011/17/2011-IR(B-II) dated 19.07.2011 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the General Secretary, Bank of India Staff Union, Lucknow and the Zonal Manager, Bank of India, Noida for adjudication.

2. The reference under adjudication is:

“WHETHER THE DEMAND OF THE BANK OF INDIA STAFF UNION, LUCKNOW FOR SET ASIDING THE DISCIPLINARY AUTHORITY PENALTY ORDER DATED 24.06.2010 AND APPELLATE AUTHORITY PENALTY ORDER DATED 16.08.2010 IMPOSED ON SRI VED PRAKASH, SPECIAL ASSISTANT BY THE MANAGEMENT OF BANK OF INDIA IS LEGAL IS PROPER? WHAT RELIEF THE WORKMAN IS ENTITLED TO?”

3. The workman union, has stated in brief in the claim statement W-3 that the petitioner workman Sri Ved Prakash, Special Assistant, has been an active member of the union and so he was subjected to harassment and victimization by the opposite party authorities. An illegal arbitrary charge sheet dated 22.09.2009 was served by the opposite party No.1, Sri A.K. Sharma was designated as Enquiry Officer, in violation of principle of natural justice the enquiry was conducted and the defence submitted by the workman was not duly considered by the Enquiry Officer and illegal/arbitrary report dated 12.04.2010 was submitted, punishment was proposed thereafter and the reply of the workman was not properly considered, Consequently punishment of dismissal was imposed vide order dated 24.06.2010. It has further been stated by the petitioner that appeal filed by him was rejected vide order dated 16.08.2010 without properly considering representation sent by the workman, no opportunity of hearing was provided to him before deciding the appeal, and moreover the authority did not give any reasons for arriving at the inference drawn by him. Non-speaking and unreasoned order was passed by the authority. With the aforesaid averments request has been made in the claim statement to set aside the impugned penalty order dated 24.06.2010 and the Appellate order dated 16.08.2010, with the prayer to reinstate him with all the consequential benefits including back wages etc. Several annexures have been enclosed by the petitioner along with the claim statement.

4. M-8, written statement has been filed by the management wherein the allegations of the claim statement have been denied and it has been alleged by the management that fraud and misappropriation of bank money was detected in several accounts of the branch where the workman was posted as Special Assistant, he was placed under suspension, charge sheet containing 9 charges was issued, keeping in view the principle of natural justice domestic enquiry was conducted as per Rules, sufficient opportunity of hearing was provided to him and thereafter genuine and reasoned punishment order dated 24.06.2010 was passed, later on opportunity for appeal was also provided and after properly considering the submissions made by the claimant workman, the Appellate Authority passed reasoned order thereby dismissing the appeal. The opposite party has further stated that the bank had in fact lost confidence in the workman's service since he was found involved in fraud and misappropriation of the bank's money. In the written statement request has further been made seeking permission to prove charges against the petitioner before this court.

5. Rejoinder W-9 along with several documents etc. (List W-10) has been filed by the petitioner, strongly denying the allegations leveled in the written statement while reiterating pleas taken in the claim statement.

6. Regarding fairness of the domestic enquiry and the perversity etc. if any, two preliminary issues were framed by the then hon'ble Judge/Presiding Officer on 22.02.2013. These preliminary issues were decided against the management vide order dated 24.01.2017 passed by me. Thereafter opportunity was provided to the management to adduce evidence but no oral evidence was provided. However, an application M-25 enclosing there with certain documents was moved by the management. Photo copies of those documents were provided to the workman, originals were returned to the management. In rebuttal some documents were filed by the workman as W-7, providing copies thereof to the management. Sufficient opportunity was provided to the management, several dates were fixed but the management preferred not to adduce any evidence.

7. The workman filed his evidence on oath. He was duly cross-examined on behalf of the management. Certain documents were filed as per list M-15 by the management pertaining to the enquiry. In evidence, the affidavit of Sri A.K. Sharma and Sri Prem Prakash Gogia were filed. However, Sri A.K. Sharma was not produced for cross-examination. Sri Prem Prakash Gogia the other management evidence was cross-examined on behalf of the management.

8. This court can not over look the fact that no further cogent and relevant evidence was adduced by the management after disposal of the preliminary issues vide order dated 24.01.2017. It is also evident from the record that the criminal case against the petitioner through an FIR, ended to the closure report sent by the Police Investigating Officer. No doubt proceeding of any criminal case is analysed on different footing. The medical certificate produced by the workman and the adjournment sought by the workman on his medical ground was not believed by the management and that certificate was consulted with some other doctor by the management but at no point of time the opposite party has made any sincere effort to seek opinion of that medical practitioner who had earlier advised rest to the workman, further the workman was never required to appear before the Medical Board constituted by the management. During the proceedings before this court, the workman could not be afforded any opportunity to cross-examine the Enquiry Officer. Moreover, it is an important admission on the part of the management witness Sri Prem Prakash Gogia in his cross-examination before this court that all the relevant documents were not provided to the workman for his perusal during the enquiry. Neither it has been brought on record of this case that any effort or sincere endeavour was ever made on behalf of the management to transmit all the relevant material documents to the workman for his perusal. It was also incumbent on the management to provide sufficient time thereafter to the workman to controvert or to submit his version. During the domestic enquiry conducted by the management authorities, this important fact should have been comprehensively investigated whether hand over of certain signed cheques to the bank officer is permissible under Bank Rules or not.

9. It has also been emphasized during the course of arguments before this court that no complaint was ever made by the Social Welfare Deptt. against the workman or by any other account holder citing any specific allegation against the workman. The relevant and material witness was never examined during the domestic enquiry conducted by the bank authorities, moreover no opportunity could be provided to the workman to cross-examine those important witnesses. Mr. Tasleem Ahmad, on whose behest an FIR was registered against the workman, was later on subjected to judicial proceedings for having lodged false complaint against the workman. The FIR registered against the workman was found to be false and Final Report was submitted by the Police Investigating Agency.

10. After having heard the intellect arguments of both the Learned Authorized Representatives for the parties at length and perusal of the record, it is inferred that the penalty order dated 24.06.2010 and order dated 16.08.2010 passed by the Appellate Authority can not be adjudicated as legal or proper. The workman petitioner, Sri Ved Prakash is entitled to reinstatement with all consequential benefits including back wages etc. All the arrears shall be paid to the petitioner workman by the management within 10 weeks from the date of notification of award failing which it shall carry interest @ 6% per annum.

11. Award accordingly.

LUCKNOW
27.11.2017

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 9 फरवरी, 2018

का.आ. 326.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक

अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ सं. 148/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.02.2018 को प्राप्त हुआ था।

[सं. एल-12012/73/2002-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 9th February, 2018

S.O. 326.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 148/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the management of Bank of Maharashtra and their workmen, received by the Central Government on 09.02.2018.

[No. L-12012/73/2002-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE SHRI SHYAM SUNDAR GARG, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No.CGIT/NGP/148/2002

Date: 14.11.2017

Party No.1 : The Asstt. General Manager,
Bank of Maharashtra,
Sitabuldi,
Nagpur-440012.

Versus

Party No.2 : Shri Ravi Ghanshyam Morkar
R/o Ward No. 104, Barasingal,
Borkar Nagar, Nagpur-440 012.

AWARD

(Dated: 14th November, 2017)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) (“the Act” in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Bank of Maharashtra and their workman, Shri Ravi Ghanshyam Morkar, for adjudication, as per letter No.L-22012/73/2002-IR (B-II) dated 12.08.2002, with the following schedule:-

“Whether the action of the management of Bank of Maharashtra in dismissing the services of Shri Ravi Ghanshyam Morkar vide order dated 13.06.2001 is legal and justified? If not, to what relief the concerned workman is entitled?”

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the workman Shri Ravi Morkar, (“the workman” in short) filed the statement of claim and the management of Bank of Maharashtra, (“party No.1” in short) filed their written statement.

The case of the workman is that he has passed class VIII and he belongs to schedule caste category and he was appointed as a sweeper in the Regional Office, Sitabuldi of party No.1 on 02.05.1984 and he was transferred to Itwari Branch of the Bank on 15.03.1986 and was posted as Farash and he was promoted as a peon and posted at Wardha on 21.05.1990 and on 06.08.2009, he was transferred to Sitabuldi Branch of the Bank. The further case of the workman is that he is a “workman” and he was in continuous service with party No.1, from the date of his initial appointment till his illegal dismissal on 13.06.2001 and the party No.1 is a Nationalized Bank and is an “Industry” and the party No.1 is also an establishment within the meaning of Bombay Shops and Establishments Act and a departmental enquiry against him was conducted by party No.1 on the charges of committing fraud and he was placed under suspension on 09.08.1997 and a complaint was also lodged against him with the police and he could not able to participate in the enquiry, as he was mentally ill and the party No.1 proceeded ahead with the enquiry ex parte, ignoring the representations made on his behalf by his wife and his wife had submitted letters to party No.1 along with certificates issued from the Government mental hospital Nagpur regarding his mental illness, mentioning therein that he was (workman) not in a position to participate in the departmental enquiry, but the Enquiry Officer proceeded with the

enquiry and submitted his report to party No.1 and he was dismissed on 13.06.2001, on the basis of the report of the ex-partie enquiry.

It is also pleaded by the workman that though party No.1 had filed a case with the police, they did not wait for the outcome of the criminal case and choose to award the extreme punishment of dismissal against him and the filing of the charge sheet, holding of the enquiry and awarding of punishment were behind his back and the findings of the Enquiry officer are perverse and no document was furnished to him and as such, the action of party No.1 is illegal, arbitrary and against the principles of natural justice and the appeal filed by him on 19.07.2001 against the order of punishment, before the appellate authority was also rejected by letter dated 01.01.2002 and it is clear from the submissions made above that the party No.1 acted illegally and arbitrarily in dismissing him from service.

The workman has prayed to reinstate him in service with continuity, full back wages and all consequential benefits.

3. The party No.1 in their written statement have pleaded inter-alia that the workman was working as sub-staff at Sitabuldi branch and a departmental enquiry was initiated against him vide charge sheet dated 17.03.1999, for the acts of forging the signature of customers and attesting the thumb impressions of persons purported to be account holders who had infact already been expired and for withdrawing an amount of Rs. 1,10,100/- fraudulently from the saving bank accounts of the customers and charge sheet under clauses 19.5 (d) and 19.5 (j) of the Bipartite Settlement, for causing damage to the property of customer and doing acts prejudicial to the interest of the Bank respectively were leveled against him and the workman was put under suspension vide order dated 09.08.1997 and a criminal complaint was also lodged against him with the police authorities on 04.09.1997 and the workman faced trial for commission of the offences under sections 420, 465, 467 and 468 of the IPC. The further case of the party No.1 is that the enquiry commenced on 27.03.1999 and the workman participated in the enquiry on that date, but subsequently, neither he participated in the enquiry nor represented by his defence representative and therefore, the enquiry was concluded ex parte against him, after giving sufficient notice and the Enquiry Officer submitted his findings on 13.11.1999 and the same was delivered to the workman and he duly acknowledged the same and the Hindi version of the same was also provided to the workman on 28.12.1999 at his request and taking into consideration the findings of the Enquiry Officer, the disciplinary authority extended a personal hearing to the workman on the proposed punishment on 05.12.2000 and again on 26.04.2001 and thereafter, the disciplinary authority imposed the punishment of dismissal from services on 13.06.2001 read with corrigendum dated 16.07.2001. It is also pleaded by party No.1 that being aggrieved by the said order, the workman filed an appeal before the appellate authority vide his letter dated 19.07.2001 and the appellate authority also extended a personal hearing to the workman on 26.11.2001, but the workman did not participate and after due consideration of his say in the appeal, the appellate authority dismissed the appeal by order dated 01.01.2002. The party No.1 denying the allegation that they conducted a one sided departmental enquiry against the workman have further pleaded that the workman had attended the enquiry on 27.03.1999 and 30.03.1999 and later on preferred to stay away from the enquiry proceedings and he participated in the hearing on proposed punishment, on 26.04.2001 granted by the disciplinary authority and on 26.11.2001 by the appellate authority and he also received the entire proceedings of the enquiry and the findings of the Enquiry Officer and therefore, it cannot be stated that the departmental enquiry was one sided and the workman was not mentally ill, as he did not produce any certificate to that effect, during the course of the proceeding and no representation was made on behalf of the workman by his wife supported with certificates issued by Govt. Mental Hospital Nagpur and the workman was dismissed on 13.06.2001 from services of the Bank for the proved acts of misconduct committed by him. It is also further pleaded by the party No.1 that the police complaint and disciplinary proceedings are mutually exclusive events and the outcome of criminal case has no relevance with the department proceedings and the issuance of charge sheets, holding of the enquiry and award of punishment were never behind the back of the workman and the enquiry was conducted in compliance with the principles of natural justice and their action was also not illegal or arbitrary and the workman is not entitled to any relief.

4. As this is a case of dismissal of the workman from services, after holding a departmental enquiry, the validity of the departmental enquiry was taken as a preliminary issue for consideration and by order dated 18.10.2012, the departmental enquiry conducted against the workman was held to be illegal, improper and not in accordance with the principles of natural justice. After that my predecessor gave an opportunity to the party No.1 to produce evidence.

5. On behalf of the petitioner, Mr. Khan, Advocate argued on the basis of case laws :-

Shiv Kumar Ram Vs. Union of India 2011-II LLJ 561, Divisional Forest Officer vs. Vijaya Sen W.P. No. 1510 of 1988 Bombay High Court Dated 07.08.1992, Pyarelal Vs. Municipal Council Ramtek 1992-I CLR 327 and Divisional Forest Officer Vs. Madhukar Ramji 1995-II CLR 292, argued that there is no recognized union operating at party No.1 bank so there is no valid B.P. settlement. He also argued that Standing Orders are applicable to party No.1. He also argued that party No. 2 unable to attend enquiry due to mental illness. He also argued that handwriting expert is paid witness so his evidence cannot be relied on. He also argued that criminal court acquitted party No. 2. He also argued that Hon'ble Tribunal has already declared the enquiry as illegal, entire charge is malafid without any

substance. So he argued that dismissal order needs to be set aside. He also prayed that punishment of dismissal is also set aside and he prayed that the petitioner is entitled to reinstate in services with all back wages.

6. On the contrary on behalf of the management, Shri R.N. Sen argued on the basis of ESIC New Delhi & others vs A.V. Tungare & others in 2014-II CLR – 587, Bombay High Court, S. Prabhakaran vs The Registrar & others, WP. 34588/2013, Madras High Court dated 02.01.2014, Kolhapur Zilla Sahakari Didha Utpadak Sangh vs. Shivaji Shankar Pharakate & others, 2009-I – CLR-286, Bombay High Court, Delhi Transport Corporation vs. Shyam Lal in Civil Appeal 9610/2003, Supreme Court, Chairman & MD V.S.P. & others vs Goparaju Shri Prabhakara Hari Babu in Civil Appeal No. 1770/2008, Supreme Court and Amrendra Kumar Singh vs. Central Bank of India & others – 2014 III CLR-42, Jharkhana High Court, argued that-----

5. I want to see the legal position on the basis case law--- Divisional Controller, Karnataka SRTC Vs. M. G. Vittal Rao 2012(3) Mh.L.J 169, Kanhaiyalal Agrawal and ors. Vs. Factory Manager, Gwalior Sugar Co. Ltd. AIR 2001 SC 3645, State Bank of India Vs. Bela Bagchi and ors. AIR 2005 SC 3272, Binny Ltd Vs. Their Workmen and Ors. AIR 1972 SC 1975, Indian Airlines Ltd. Vs. Prabha D Kanan, AIR 2007 SC 548 and Pandiyan Roadways Corp. Ltd. In the case law of Purushottam Lal Dhingra AIR 1958 SC-36, State of HP Vs. Suresh Kumar Verma (1996) 7 SCC-562, Gurusharan Singh Vs. New Delhi Municipal Committee 1996 2 SCC – 459, Workmen vs. Firestone tyre & Rubber Co. of India (P) Ltd., AIR 1973 SC-1227 and Union of India and another vs Tulsiram Patel and others, AIR 1985 SC 1416:-- Now I want to mention principles laid down in the above case laws:-

(i) S.11-A, Proviso- Expression- 'Material on record'

The expression 'Material on record', occurring in the proviso, cannot be confined only to the materials which were available at the domestic enquiry. On the other hand, the 'materials on record' in the proviso must be held to refer to material on record before the Tribunal. They take in-

- 1) The evidence taken by the management at the enquiry and the proceedings of the enquiry, or
- 2) The above evidence and in addition, any further evidence led before the Tribunal, or
- 3) Evidence placed before the Tribunal for the first time in support of the action taken by an employer as well as the evidence adduced by the workmen contra.

(ii) S.11. A, Proviso- Expression 'fresh evidence'

The expression 'fresh evidence' has to be read in the context in which it appears namely, as distinguished from the expression 'materials on record'. If so read, the proviso does not present any difficulty at all.

- (iii) Judicial review is concerned primarily with the decision making process and not the decision itself. More so, it is a settled legal proposition that in a case of misconduct of grave nature like corruption, theft, no punishment other than the dismissal may be appropriate.
- (iv) It is a positive concept and cannot be enforced in a negative manner- Where state commits any illegality or irregularity in favour of any individual or group of individuals others cannot claim the same illegality or irregularity on ground of denial thereof to them- Only a claim which is just and legal can constitute a ground for discrimination on the basis that it had been extended to some and denied to others.
- (v) Even in cases where no enquiry has been held by an employer before passing an order of dismissal or discharge, it is open to him to adduce evidence for the first time before the Tribunal. Though the Tribunal is exercising only a very limited jurisdiction under this section nevertheless, it would have applied its mind before giving permission or approval. Section 33 only imposes a ban. An order of dismissal or discharge passed even with the permission or approval of the Tribunal can form the subject of a dispute and as such referred for adjudication. If no enquiry is held, the order of dismissal will have to be set aside, if accepted, will lead to very incongruous results.
- (vi) If the Tribunal comes to the conclusion that the misconduct is established, either by the domestic enquiry accepted by it or by the evidence adduced before it for the first time, the Tribunal originally had no power to interfere with the punishment imposed by the management. Once the misconduct is proved, the Tribunal had to sustain the order of punishment unless it was harsh indicating victimization. Under section 11-A, though the Tribunal may hold that the misconduct is proved, nevertheless it may be of the opinion that the order of discharge or dismissal for the said misconduct is not justified. It can, under such circumstances, award to the workman only lesser punishment instead. The power to interfere with the punishment and alter the same has been now conferred on the Tribunal by S.11-A.
- (vii) The Tribunal is now clothed with the power to reappraise the evidence in the domestic enquiry and satisfy itself whether the said evidence relied on by an employer establishes the misconduct alleged

against a workman. What was originally a plausible conclusion that could be drawn by an employer from the evidence, has not given place to a satisfaction being arrived at by the Tribunal that the finding of misconduct is correct? The Tribunal is now at liberty to consider not only whether the finding of misconduct recorded by an employer is correct, but also to differ from the said finding if a proper case is made out.

- (viii) It is not obligatory upon the disciplinary authority to dispense with the whole of the inquiry. Depending upon the circumstances of the case, the disciplinary authority can dispense with only a part of the inquiry ---- Imposition of penalty is not a part of the inquiry -----

Where public interest conflict with private interest the latter must yield to former----

“Sympathy and commiseration cannot be allowed to outweigh considerations of public policy, concern for public interest, regard for public interest, regard for public good and the peremptory dictate of a Constitutional prohibition” ---- “In Maneka Gandhi’s case and in Liberty Oil Mills and others v. Union of India and others (1984) 3 S.C.C. 465 the right to make a representation after an action was taken was held to be a sufficient remedy, and an appeal is a much wider and more effective remedy than a right of making a representation”.

- (ix) Court laid down the test for loss of confidence to find out as to whether there was bona fide loss of confidence in the employee, observing that, (i) the workman is holding the position of trust and confidence; (ii) by abusing such position, he commits an act which results in forfeiting the same; and (iii) to continue him in service/establishment would be embarrassing and inconvenient to the employer, or would be detrimental to the discipline or security of the establishment.
- (x) An employer is not bound to keep an employee in service with whom relations have reached the point of complete loss of confidence/faith between the two.
- (xi) “Loss of confidence cannot be subjective but there must be objective facts which would lead to a definite inference of apprehension in the mind of the employer regarding trustworthiness of the employee and which must be alleged and proved.”

6. Now I want to discuss the evidence part with regard to departmental enquiry: ----

As asserted above my predecessor officer on 18/10/2012 gave an opportunity to management for adducing evidence, the management examined Rajesh Kumar (DW-2), Shyama Prasad Mohanti (DW-3), Dinkar (DW-4), Harish (DW-5), Ashok. S. Joshi (DW-6 and Ramesh B. Mahadri (DW-7) as Bank officers who gave their statement on Bank record and try to prove by the management case, all of them stated that Party No. 2 worker, Ravi was employed in their bank since 02.05.1984 as a peon, he was posted in Sitabuldi Branch in Saving Branch, they also asserted that Party No. 1, Ravi withdraw the amount by putting false signature or thump impression of the pension holder and identified thumb impression of deceased namely, Phula Bai, Baghi and Meka Bai and fraudulently withdrawn the amount from their account. Overall these are bank officers giving their statement on the basis of record but they are not cross-examined by Party No. 2 on the point of identification of pensioners withdrawal slip. On this point evidence of these witnesses appears to be true which is also supported by handwriting expert, Sanjay Kotwal (DW-8).

7. As far the departmental enquiry is concerned, (on behalf of workman, Ravi), no evidence is produced. He did not pray to examine expert evidence on his behalf. He did not produce any further evidence after 18.10.2012, in his previous statement, Ravi Morkar admitted that he was working in DD counter, he also admitted that after treatment he became fit, he did not file illness certificate from 15.08.1996, he also resumed his duties on 15.08.1996 upto his suspension. Petitioner also admitted in his statement that he was convicted in criminal case on the basis of complaint filed by the bank authority in Sitabuldi Police Station. Petitioner also asserted that he filed the appeal before Session Court in which he was acquitted.

8. On perusal of above record my humble opinion is that fair opportunity was not given to worker and a proper principle of natural justice was not complied with.

Considering the argument of both sides and looking the evidence part some facts which I mentioned before going on decision of quantum part:-

- 1) Petitioner was working on the post of peon
- 2) Allegation against the petitioner was that he withdrawn the account holder's money by putting forged signature/thump impression. It is also argued on behalf of bank that he identified the deceased account holder's signature/thump impression.
- 3) Argument of bank is also that he also deposited 26800/- on 30.07.1997.

- 4) Petitioner also admitted his guilt by document No. M-II and M-3 dated 02.08.1997 before the bank authority.
- 5) In document W-VI & VII doctor mentioned that the deceased name is Paranoid schizophrenia which dictionary meaning is “false belief – mental disorder marked by break down in the relation between thoughts, feelings and actions”.
- 6) Duration of his treatment is mentioned in certificate from 08.04.1999 to 26.08.1999 but enquiry report completed on 30.11.1999 by Mr. D.S. Athawale (MW-6). It also appears that, in some dates, petitioner/workman appeared in the departmental enquiry.
- 7) Petitioner/workman also filed an appeal before the bank authority, which was decided against the petitioner on 01.01.2002.
- 8) At the time of argument, petitioner's advocate told that now the age of the petitioner is 54.

In case law--- Delhi Transport Corp. vs. Ombir Singh 2017 LLR 252, Hon'ble Lordship held that “Where principles of natural justice are not being complied with, then in such cases, compensation ought to be granted even if termination of service is found to be valid”. On the basis of principle laid down in Engineering Laghu Udyog Employees Union vs Judge, Labour Court and Industrial Tribunal & others – (2003) 12 SCC 1 in which it was held that:- “no difference whether the matter comes before the tribunal for approval under S.33 or on a reference under S.10 of the Industrial Dispute Act, 1947. In either case if the enquiry is defective or if no enquiry has been held as required by Standing Orders, the entire case would be open before the tribunal and the employer would have to justify on facts as well that its order of dismissal or discharge was proper.” “A defective enquiry in our opinion stands on the same footing as no enquiry and in either case the tribunal would have jurisdiction to go into the facts and the employer would have to satisfy the tribunal that on facts the order of dismissal or discharge was proper.” The employer, thus, has got a right to adduce evidence before the Tribunal justifying its action, even where no domestic inquiry whatsoever has been held.

It will be open to the Tribunal to pay compensation even in a case where ultimately charges are proved, despite holding that the order of termination is valid for the reason that principles of natural justice have not complied with.

Judging the present case in hand with the touch stone of the principles as mentioned above, it is found that law is well settled that where principles of natural justice were not complied with then in such cases compensation ought to be granted because termination of the services in my opinion is valid.

12. In view of the discussion made above and the materials on record, it is found that there is no scope to interfere with the order punishment of dismissal from services past against the workman. Hence, it is ordered:-

ORDER

The action of the management of Bank of Maharashtra in dismissing the services of Shri Ravi Ghanshyam Morkar vide order dated 13.06.2001 is legal and justified, but due to lack of procedure in departmental enquiry the workman is entitled for Lump sum compensation of Rs. 2,00,000 from party No.1 in lieu of reinstatement which is payable within one month from the publication of this award in official gazette, failing which, the amount due to the workman will carry interest of 6% per annum from the date of due to the workman to the date of actual payment of the amount to the workman. The workman is not entitled for any other relief.

SHYAM SUNDAR GARG, Presiding Officer

नई दिल्ली, 9 फरवरी, 2018

का.आ. 327.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ सं. 21/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.02.2018 को प्राप्त हुआ था।

[सं. एल-12011/07/2013-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 9th February, 2018

S.O. 327.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 21/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the management of Bank of MAHARASHTRA and their workmen, received by the Central Government on 09.02.2018.

[No. L-12011/07/2013-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE SHRI S.S GARG, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/21/2014

Date: 28.11.2017

Party No. 1 : The Chairman & Managing Director,
Bank of India, Bandra Kurla Complex,
Bandra (East), Mumbai - 400051.

V/s

Party No. 2 : The General Secretary,
All India Bank of India
SC/ST/OBC Employees' Assn.,
Est-Lyn, 1, Peace Road, PO &
PS. Lalpur, Ranchi – 834001.

ORDER

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) (“the Act” in short), the Central Government has referred the industrial dispute for adjudication between the management of (The Chairman & Managing Director, Bank of India and the General Secretary, All India Bank of India SC/ST/OBC Employees' Assn.) vide letter **No.L-12011/07/2013-IR(B-II)** dated **26.08.2014**, on the following schedule:-

“Whether there is a breach of guidelines contained under Item No. 6 in the minutes of the meeting held on 01.10.2002, circulated vide letter No. 1/22/2002-SCT(B) dated 25.10.2002 issued by Ministry of Finance, Department of Economic Affairs, Banking Division, New Delhi in respect of All India Bank of India SC/ST/OBC Employees' Association. If so? What directions are necessary in the matter”

2. Both the parties are absent. After due service of the notice and intimation given by the CGIT-cum-Labour Court-1, Mumbai. Their advocates are also absent. On the date of 04.09.2017, on behalf of the petitioner/Party No. 2, Union President filed an application for withdrawal of the reference. Nobody objected the application till today.

Originally, Hon'ble Government referred this matter to the CGIT-1, Mumbai, where statement of claim, written statement was filed by the parties. This reference was transferred to this Court by order dated 26.08.2014.

After perusal of the records, my opinion is that nobody wants to press this reference, so, application filed by the petitioner/Party No. 2 are accepted because their claim is settled between the parties.

So, the application for withdrawal of reference is allowed. Hence, it is ordered:-

ORDER

The application for withdrawal of the case is allowed. The case is treated as withdrawn. The application filed by the Party No. 2 for withdrawal of the case is made part of the order. The reference is answered in the negative and against the petitioner. The petitioner is not entitled to any relief.

S. S. GARG, Presiding Officer

BEFORE THE H'BLE CGIT-CUM-LABOUR COURT, NAGPUR

Ref. No. L-12011/07/2013-IR (B-II)

F.F. 4.9.2017

All India BOI SC/ST/OBC Emp. Asson.

V/s.

Bank of India

That the President of Party No. 2 begs to apply as under :

1. That the Party No. 2 Association has raised dispute which has been referred to this H'ble Tribunal for adjudication U/s 10 of IDA 1947.
2. Now by way of subsequent development, the said Party No. 2 has been allotted office accommodation in the Bank's Building in compliance with item No. 6 of the minutes of the meeting held on 1.10.2002 and circulated vide its letter No. 1/22/2002-SCT(II) of 25.0.2002 by Ministry of Finance, Deptt. of Economic Affairs, Banking Division, New Delhi, for enabling it to carry out its activities smoothly and with vigour.
3. The Party No. 2 hereby files instant application for withdrawing the reference case pending on the file of this H'ble Tribunal for disposal of the same by amicable settlement out of Tribunal.
4. Hence this application.

Prayer :

It is therefore most humbly prayed that this H'ble Tribunal may kindly be pleased to grant the said application for having disposed the dispute amicably by the Bank in the interest of justice.

Nagpur
Sept., 4, 2017

(Signature illegible)
C.F. Party No. 2

(Signature illegible)
President/C.F. Party No. 2

नई दिल्ली, 9 फरवरी, 2018

का.आ. 328.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ सं. 27/2014-15) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.02.2018 को प्राप्त हुआ था।

[सं. एल-12011/66/2014-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 9th February, 2018

S.O. 328.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 27/2014-15) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the management of Bank of Maharashtra and their workmen, received by the Central Government on 09.02.2018.

[No. L-12011/66/2014-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE SHRI J.P.CHAND, PRESIDING OFFICER, CGIT-CUM-LABOURT COURT, NAGPUR

Case No.CGIT/NGP/27/2014-15

Date: 04.01.2018.

Party No.1 : The Dy. General Manager,
Bank of Maharashtra, Regional Office,
Nagpur Region, Mahabank Building,
Dr. Munje Marg, Sitabuldi,
Nagpur – 440012.

Versus

Party No.2 : The General Secretary
 Union of the Maharashtra Bank Employees,
 C/o Bank of Maharashtra, Mahabank Bhavan,
 Sitabuldi Branch, Abhyankar Road,
 Nagpur – 440012.

AWARD

(Dated: 4th January, 2018)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) (“the Act” in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Bank of Maharashtra and their union, Union of the Maharashtra Bank Employees, for adjudication, as per letter **No.L-12011/66/2014- (IR(B-II) dated 09.10.2014**, with the following schedule:-

“Whether the action of the management of Bank of Maharashtra, Nagpur in denying the alaim of Union of the Maharashtra Bank Employees for permanent absorption of Shri Ratnadeep Kashinath Meshram, temporary part time sub staff of Mahal Branch, Nagpur of Bank of Maharashtra, is just, fair and legal? What relief Shri Ratnadeep Kashinath Meshram is entitled to?”

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement, by registered post with acknowledge due. On 02.02.2015, advocate for the workman was present and filed vakalatnama but did not file statement of claim. On 19.03.2015, Advocate for the management filed vakalatnama but on that day also, petitioner did not file statement of claim. Court was vacant from March, 2015 to September, 2017. So, next notice was issued to the parties fixing the date on 07.11.2017. On 07.11.2017, petitioner himself was present and orally submitted that he wants time to engage advocate. Thereafter the case was adjourned to 21.11.2017, 12.12.2017 and 04.01.2018. Today also, i.e. on 04.01.2018, nobody appeared on behalf of the petitioner nor any statement of claim filed. For the management Mr. R.N. Sen was present and filed an application for passing appropriate Award. It shows that, petitioner is not interested to continue this case.

It is well settled that whenever a party challenges the legality of an order, the burden lies upon him to prove the illegality of the order and it is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the party fails to appear or file written statement or produce evidence, the dispute referred by the Government cannot be answered in favour of the said party and the party would not be entitled to any relief.

Judging the present case with the touch stone of the settled principles as mentioned above, it is found that the petitioner has neither appeared nor filed any statement of claim and as such, he is not entitled to any relief. Hence, it is ordered:-

ORDER

The reference is answered in the negative and against the petitioner. The petitioner is not entitled to any relief.

SHYAM SUNDER GARG, Presiding Officer

नई दिल्ली, 13 फरवरी, 2018

का.आ. 329.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 3/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.02.2018 को प्राप्त हुआ था।

[सं. एल-20012/145/2014-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 13th February, 2018

S.O. 329.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad

(Ref. No. 3 of 2015) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 09.02.2018.

[No. L-20012/145/2014-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference No. 3/2015

Employer in relation to the management of Katras Area of M/s. BCCL

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer

Appearances:

For the Employers : Shri D.K. Verma, Advocate

For the workman : Shri Pintu Mondal, Advocate

State : Jharkhand Industry : Coal

Dated : 17/01/2018

AWARD

By order No. L-20012/145/2014 IR-(C-I), dated. 15.01.2015 the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of Sub –Section (1) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act.1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of Ramkanali colliery under Katras Area of M/s. BCCL in denying employment to Shri Haripad Pankaj, defendant son of Late Roshwa Bhuni, Ex- W/Loader under the provision of NCWA-Vi is fair and justified? To what relief Shri Haridad Pankaj defendant son of Late Roshwa Bhuni is entitled to?”

2. The case is received from the Ministry of Labour on 28.01.2015. After receipt of reference, both parties are noticed, the Sponsoring Union files their written statement on 27.04.2015. The management files written statement – cum- rejoinder on 28.07.2015. One witness examined on their behalf of the management but three witnesses examined of behalf of the workman. Document of workman marked as Ext. W-1 to W-17.

3. The short point to be decided in this reference that the deceased workman’s dependent son who applied for job is entitled for job or not.

4. The applicant is the deceased workman’s son i.e of Roshwa Bhuni Ex- wagon Loader, who died during his job i.e 11/04/2001. The applicant applied for job on compassionate ground on 29.12.2003. The management refused the claim of the applicant as the CMD issued a circular, unless an applicant is filed by the defendant within 18 months his claim will be refused. In this case workman application filed beyond 18 months.

5. It is known to all, after the death of an earning member of a family, what misery a family suffer. The un-educated defendant have no way except darkness and emptiness, to get all papers for applying for the post in proper Proforma. Getting testimonials etc is also not easy. Lack of legal awareness in another stumbling bloc for common man.

6. More over NCWA gives right to the dependent to get a job, considering all aspects it is ordered to give job to workman waiving all formality .

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 13 फरवरी, 2018

का.आ. 330.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 04/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.02.2018 को प्राप्त हुआ था।

[सं. एल-20012/32/2016-आईआर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 13th February, 2018

S.O. 330.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad

(Ref. No. 04 of 2017) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 09.02.2018.

[No. L-20012/32/2016-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference No. 04/2017

Employer in relation to the management of E.J. Area of M/s. BCCL

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer

Appearances:

For the Employers : None

For the workman : Shri Pintu Mondal, Rep.

State : Jharkhand Industry : Coal

Dated : 17/01/2018

AWARD

By order No. L-20012/32/2016 IR-(CM-I), dated.01.02.2017/ 6.02.2017, the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of Sub –Section (1) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act.1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“ Whether the action of the management of BCCL in terminating the services of Shri Subhash Bhuria Ex-Miner Loader, pers. No. 03023538 without conducting enquiry in fair and legal manner is legal and justified ? If not to what relief the workman is entitled to and from which date?”

2. The case is received from the Ministry of Labour on 24. 02.2017. After receipt of reference , both parties are noticed. The Sponsoring Union files their written statement on 14.12.2017. But after notice, neither the management present nor file any written statement.

3. The point involved in the reference is that the workman has been dismissed from his services vide order dated 21.02.2003.

4. The short point involved in the reference is that the workman has been dismissed from his services on long absenteeism.

5. During Preliminary hearing. it is revealed that the case is dismissal of workman for long absence on duty. But he has already out of service for last 15 years. It is felt to give another chance to the workman to serve.

6. Considering the facts and circumstances of this case, I hold that he be taken into job as a fresh employee, verifying his date of birth as well as proper identification. But the workman be kept under probation for the period of two year. Therefore the question of granting back wages does not arise at all.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 13 फरवरी, 2018

का.आ. 331.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 05/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.02.2018 को प्राप्त हुआ था।

[सं. एल-20012/58/2013-आईआर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 13th February, 2018

S.O. 331.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 05 of 2014) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 09.02.2018.

[No. L-20012/58/2013-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference No. 05/2014

Employer in relation to the management of P. B. Area of M/s. BCCL

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer

Appearances:

For the Employers : Shri S.N.Ghosh, Advocate

For the workman : Shri S.K.Sinha, Advocate

State : Jharkhand

Industry : Coal

Dated : 08/01/2018

AWARD

By order no . L- 20012 /58/2013 /IR (CM-I) dated 01/01/2014, the Central Government in the Ministry of Labour has in exercise of the power conferred by clause (d) of sub – section (1) and sub – section (2A) of section 10 of the Industrial Disputes Act , 1947 referred the following dispute for adjudication to this Tribunal :

SCHEDULE

“Whether the action of the management of P.B.Area of M/S BCCL in not providing employment to Sri Ashok Hari, dependent son of Late Arjun Hari under the provision of NCWA is fair and justified? To what relief the dependant son of Late Arjun Hari is entitled to?”

2. The case is received from Ministry of Labour on 16.01.2014. The Sponsoring Union files their written statement on 07.02.2014 and the management files their written statement on 26.08.2014. Thereafter rejoinder and document filed by the parties. Ashok Hari concerned workman examined as WW-1 but the management has failed to produce any witness . Documents of the workman marked as W-1 to W-10 .

3. The case of the workman is that his father was permanent employee of Gopalichak Colliery under M/S BCCL and he expired on 13.03.2000. Thereafter he applied for employment on 17.04.2001 i.e after 13 month from death of his father. After submission of application management handed over an employment form . and after filing of form the management sent the application form to the BDO Dhanbad and Jamtara for verification. After verification the management sent a letter for medical test on 24.11.2004 . After medical test the management kept mum. After five years the management told the workman his claim was regretted on the belated ground . The management told that no claim was entertained after 18 months from the death of death. Hence dispute arose.

4. On the other hand the case of the management that the father of Ashok Hari namely Arjun Hari was permanent employee of Gopalichuk Colliery working as sweeper and he expired on 16.3.2000, and after withdrawal of all service benefits of late Arjun Hari the applicant raised the dispute at very belated stage which is time barred as per the norms of the company.

5. The management also submitted that the application for employment has been filed after 26 months of the death of Late Arjun Hari which is not maintainable as per BCCL's circular that no application for employment on compassionate ground shall be entertained after 18 months of the death of the employee.

6. This is a case of dependant employment. Admittedly the workman's father died while in job and the workman applied for job and his application was rejected on the ground of delay. But it is noticed that the management issued letter for medical test on Nov. 2004 marked as Ext 5 & 6.

7. As per Ext W-1, the service excerpt, in which the name of the applicant is mentioned and he was 4 year on 1987. It means at the time of death of his deceased father he was 17 years old. As per Ext W-2 he applied for job on 17.04.2001 which was received. It is also seen that many letter Issued to workman to produce photograph and other papers on 2003 & 2004. But the management regretted his application on 2006 after delay of two years which is marked as Ext-W-7.

8. Usually after the death of an earning member of family, the family virtually thrown to street. It may not be possible to file claim fulfilling all formality. The objection of management, that the claim has been after long delay has no leg to stand. Hence the workman/claimant be given job waiving formality, to save him from starvation.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 13 फरवरी, 2018

का.आ. 332.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 8/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.02.2018 को प्राप्त हुआ था।

[सं. एल-20013/02/2018-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 13th February, 2018

S.O. 332.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 8 of 2017) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 09.02.2018.

[No. L-20013/02/2018-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

I.D. Case No. 8 of 2017

Gulab Chand Pasi
Ex-Roof Bolter
P.B. Area M/s. BCCL

P.No.- -02991297
 At present Vill- Upardaha
 P.O- Berapur
 Dist-Allahabad

...Applicant/Workman

Vs

General Manager
 P.B.Area M/S BCCL
 P.O- Kusunda
 Dist- Dhanbad

...Opp.Party/ Management

Present : Shri R. K. Saran, Presiding Officer

Appearances:

For the Applicant : Shri Pintu Mondal, Rep.
 For the Opp.Party : Shri N.M. Kumar, Advocate
 State : Jharkhand

Industry : Coal

Dated : 08/01/2018

AWARD

This is an application dated 12/05/2017 filed by the petitioner on 15/05/2017 under Sec.2 A of the ID Amendment Act 2010 of the I.D Act.1947, against the order of dismissal vide order dt. 18/20.02.2015 with prayer to set aside the order of dismissal and pass an award for reinstatement with full back wages on the basis of pleadings filed by the parties issue involved in this application as below:-

SCHEDULE

“Whether the action of the management of P.B. Project Colliery under P.B. Area of M/S BCCL in dismissing Sri Gulab Chand Pasi vide dismissal order dated 18/ 20.02.2015 is legal and justified? If not, to what relief the workman concerned is entitled”

2. The case is received from the concerned workman U/S 2A of I.D Amedment 2010 on 15.05.2017. After receipt of reference , both parties are noticed. The management files their written statement on 08.08.2017. The point involved in the reference is that the workman has been dismissed from her services.

3. On perusal of record , it is seen that the concerned workman was dismissed from service vide order dated 18/20.02.2015. thereafter the sponsoring Union filed Industrial Dispute before the A.L.C (C) Dhanbad on 31.03.2017 but after expiry of 45 days as per provision of I.D. Amendment Act 2010 the conciliation procdeedings is not initiated. The concerned workman filed a petition before the A.L.C (C) Dhanbad on 31.03.17 to closed the dispute and the ALC(C) issued a letter dated 24/26.04.2017 to close the consiliation proceeding. The Sponsoring Union /Workman filed the Industrial Dispute as I.D Case on 15.05.2017.

4. Rejoinder and document filed by the parties. Point involved in this ID case is that the workman has been dismissed from his services on the ground of long absence. But he has already out of service since last 2 years and 10 months. It is felt to give another chance to the workman concerned to serve.

5. Considering the facts and circumstances of this case, I hold that he be taken into job as a fresh employee in cat-I. after proper verification. But the workman be kept under probation for a period of two year. Therefore the question of giving back wages does not arise at all.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 13 फरवरी, 2018

का.आ. 333.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 9/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.02.2018 को प्राप्त हुआ था।

[सं. एल-20013/02/2018-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 13th February, 2018

S.O.333 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 9 of 2016) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 09.02.2018.

[No. L-20013/02/2018-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

I.D. Case No. 9 of 2016

Ganesh Dushad Ex- employee Basanti Mata Colliery C.V.Area M/S BCCL	...Applicant/Workman
---	----------------------

Vs

- | | |
|---|--------------------------|
| 1. Project Officer,
Basantimata /DBOCO
At-Dahibari P.O- Mugma
Dist-Dhanbad | |
| 2. General Manager
C.V.Area XII M/S BCCL
At- Bengumia P.o- Barakar
Dist- Burdwan | ...Opp.Party/ Management |

Present : Shri R. K. Saran, Presiding Officer

Appearances:

For the Applicant : Shri D.Mukherjee, Advocate

For the Opp. Party : Shri S.N.Ghosh,, Advocate

State : Jharkhand

Industry : Coal

Dated : 16/01/2018

AWARD

This is an application dated 05/12/2016 filed by the petitioner under Sec.2 A of the ID Amendment Act 2010 of the I.D Act.1947, against the order of dismissal vide order dt. 5/6.07.2016 with prayer to set aside the order of dismissal and pass an award for reinstatement with full back wages on the basis of pleadings filed by the parties issue involved in this application as below:-

SCHEDULE.

“Whether the action of the management of Basantimata Colliery of M/S BCCL is dismissing Sri Ganesh Dusadh from service was illegal and justified? If so, what relief the workman entitled to?”

2. The case is received from the concerned workman U/S 2A of I.D Amednt Act 2010 on 05.12.2016. After receipt of I.D case, both parties are noticed. The management files their written statement on 23.05.2017. The point involved in the I.D case, that the workman has been dismissed.
3. The present I.D is raised after the dismissal of workman, after he was found guilty in criminal case. The workman has filed, Cr. Revision No 1171 of 2015 , before the Jharkhand High Court of Ranchi for setting aside the conviction. The said revision has been admitted by the Hon’ble Court and the Hon’ble Court kept the case for hearing. Filing and admit of a criminal appeals or revision virtually loses the finality of the conviction.
4. The workman is also released on bail by Hon’ble Court pending Cr. Revision.

5. In a decision reported in **CWJC 63 of 1994 dated 27.01.1995, Ram Nandan Prasad Vs State of Bihar and ors.** Hon’ble High Court, passed by B.N. Agrawal, J , the following order relevant portion quoted below:-

Constitution of India-Article 311(2) Proviso- the power cannot be exercised till the appeal (if preferred) against conviction has been disposed of or time limit for filing appeal has expired (para-4)

Service Law-Dismissal from service on the ground of conviction in a criminal case – appeal having been preferred by the delinquent against the order of conviction and the appeal having been admitted and remaining pending. The order of dismissal is not valid- limitation of the power exercisable under proviso of Article 311 (2) of the constitution(Paras 4 and 5).

6. Moreover the workman has filed an undertaking, if he loses in High Court, the management is at liberty to dismiss him at once. This being the situation it is ordered, he be taken into job, in which he was working till final verdict of the Hon'ble Court, if, that goes against the workman.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 13 फरवरी, 2018

का.आ. 334.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 12/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.02.2018 को प्राप्त हुआ था।

[सं. एल-20012/12/2017-आईआर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 13th February, 2018

S.O. 334.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 12 of 2017) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 09.02.2018.

[No. L-20012/12/2017-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference No. 12 of 2017

Employer in relation to the management of Lodna Area of M/s. BCCL

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer

Appearances:

For the Employers : Shri Ganesh Prasad, Advocate

For the workman : Shri R.R.Ram, Rep

State : Jharkhand

Industry : Coal

Dated : 16/01/2018

AWARD

By order No.-L-20012/12/2017 IR-(CM-I), dated. 02/06/2017, the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of Sub –Section (1) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act.1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action taken by the management of North Tisra Colliery of M/s. BCCL in terminating the service of Sri Kailash Das without conducting of inquiry in fair and legal manner is legal and justified? If not, to what relief the workman is entitled to and from which date?”

2. The case is received from the Ministry of Labour on 27.06.2017. After receipt of reference, both parties are noticed. The Sponsoring Union files their written statement on 10.07.2017 and the management files their written statement –cum – rejoinder on 15.12.2017.

3. The point involved in the reference is that the workman has been dismissed from his services w.e.f 28.08.2005. Neither the evidence adduced nor any document marked by either side.

4. The short point involved in the reference is that the workman has been dismissed from his services on long absenteeism ground. During Preliminary hearing, it is revealed that the case is dismissal of workman for long absence on duty. But he has already out of service for last 12 years. It is felt to give another chance to the workman to serve.

5. Considering the facts and circumstances of this case, I hold that he be taken into job as a fresh employee subject to identity proof and proper identification & also verifying the Date of Birth of concerned workman. But the workman be kept under probation for the period of two year. Therefore the question of granting back wages does not arise at all.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 13 फरवरी, 2018

का.आ. 335.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 19/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.02.2018 को प्राप्त हुआ था।

[सं. एल-20012/119/2011-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 13th February, 2018

S.O. 335.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 19 of 2012) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 09.02.2018.

[No. L-20012/119/2011-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference No. 19 of 2012

Employer in relation to the management of Kusunda Area of M/s. BCCL

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer

Appearances:

For the Employers : Shri Nitish Sahay, Advocate

For the workman : Shri A.K. Roy, Advocate

State : Jharkhand

Industry : Coal

Dated : 1. 01.2018

AWARD

By order No.-L-20012/119/2011 IR-(C-I), dated. 29.02.2012 the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of Sub –Section (1) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act.1947, referred the following disputes for adjudication to this Tribunal:

SCHEDEULE

“Whether the action of the management of Kusunda colliery of M/s. BCCL in not providing employment to Sri Sudharshan Tanti, the dependant son of Late Mangru Tanti under the provision of NCWA (after a lapse of more than 10 years from the date of death) is fair and justified? To what relief Sri Sudarshan Tanti, dependant son of Late Mangru Tanti is entitled to?”

2. The case is received from the Ministry of Labour on 21.03.2012. After receipt of reference, both parties are noticed, the workman files their written statement on 11.03.2013. But after long delay the management also files written statement-cum-rejoinder on 27.03.2014. One witness examined on their behalf of the workman but no witness examined of behalf of the management. Document of workman marked as Ext. W-1 to W-8.

3. The short point to be decided in this reference that the deceased workman's dependent son who applied for job is entitled for job or not.

4. This is a case of dependant employment case. Admittedly the concerned workman died during service and his son applied for job. The plea of the management after long delay, the regretted the claim. The applicant applied and he has been examined in chief also, management did not come forward to cross examined the applicant. His evidence remained unchallenged.

5. After the death of an earning member of a family, the family see black days, the un-educated dependant have no way except darkness and emptiness, to get all papers and for applying with proper Proforma is not possible.

6. More over NCWA gives right to the dependent to get a job, considering all aspects it is ordered to give job to workman waiving all formality . but before taking him to job, his age be determined by medical board and his identity also be checked.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 13 फरवरी, 2018

का.आ. 336.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 28/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.02.2018 को प्राप्त हुआ था।

[सं. एल-20013/02/2018-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 13th February, 2018

S.O. 336.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 28 of 2017) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 09.02.2018.

[No. L-20013/02/2018-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

I.D. Case No. 28 of 2017

Baban Bhuria
Ex-R.B.Mazdoor
P.No-02980647

K.B.10/12 Pits Colliery
Under P.B. Area
Vill –Tar P.O- Jamua
Dist- Munger (Bihar)

...Applicant /Workman

Vs

General Manager
P.B.Area M/s. BCCL
P.O- Kusunda
Dist- Dhanbad

...Opp.Party/ Management

Present : Shri R. K. Saran, Presiding Officer

Appearances:

For the Applicant : Shri Pintu Mondal , Rep.
For the Opp.Party : Shri N.M. Kumar, Advocate
State : Jharkhand

Industry : Coal

Dated : 16.01.2018

AWARD

This is an application dated 22.09.2017 filed by the petitioner on 22.09.2017 under Sec.2 A of the ID Amendment Act 2010 of the I.D Act.1947, against the order of dismissal vide order No./per/Dismissal/ 2015/55 dt. 11/13.04.2015 with prayer to set a side the order of dismissal and pass an award for reinstatement with full back wages on the basis of pleadings filed by the parties issue involved in this application as below:-

SCHEDULE

“Whether the action of the management of K.B 10/12 Pits Colliery under P.B. Area of M/s. BCCL in dismissing Sri Baban Bhuria vide dismissal order dated 11/13.04.2015 is legal and justified? If not, to what relief the workman concerned is entitled”

2. The case is received from the concerned workman U/S 2A of I.D Amemdment Act 2010 on 22.09.2017. After receipt of I.D case , both parties are noticed. The management files their written statement on 06.12.2017. The point involved in the I.D case, that the workman has been dismissed from her services on absenteesm.

3. On perusal of record, it is seen that the concerned workman was dismissed from service vide order dated 11/13.04.2015. thereafter the sponsoring Union filed Industrial Dispute before the A.L.C (C) Dhanbad on 24.07.2017 but after expiry of 45 days as per provision of I.D. Amendment Act 2010 the conciliation procdeeding is not initiatied. The concerned workman filed a petition before the A.L.C (C) Dhanbad to closed the dispute and thereafter the ALC(C) issued a letter dated 22.09.2017 for information that the consiliation proceeding is already closed. The Sponsoring Union /Workman filed the Industrial Dispute as I.D Case on 22.09.2017.

4. Dcument filed by the applicant .Point involved in the I.D case, that the workman has been dismissed from his services on the ground of long absence. But he has already out of service since last 2 years and 08 months. It is felt to give another chance to the workman concerned to serve.

5. Considering the facts and circumstances of this case, I hold that he be taken into job as a fresh employee in cat-I. after proper verification. But the workman be kept under probation for a period of two year. Therefore the question of giving back wages does not arise at all.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 13 फरवरी, 2018

का.आ. 337.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 45/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.02.2018 को प्राप्त हुआ था।

[सं. एल-20012/23/2014-आईआर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 13th February, 2018

S.O. 337.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 45 of 2014) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. CCL and their workmen, which was received by the Central Government on 09.02.2018.

[No. L-20012/23/2014-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference No. 45 of 2014

Employer in relation to the management of B & K Area, Kargali M/s. CCL

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer

Appearances:

For the Employers : Shri D.K. Verma, Advocate

For the workman : Shri K.K.Mishra, Advocate

State : Jharkhand

Industry : Coal

Dated : 12.01.2018

AWARD

By order No. L- 20012 /23/2014/IR (CM-I) dated 23.04.2014, the Central Government in the Ministry of Labour has in exercise of the power conferred by clause (d) of sub – section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act , 1947 referred the following dispute for adjudication to this Tribunal :

SCHEDEULE

“Whether the action of the Management of CCL, B&K Area, Kargali in not referring the application of Md. Alamgir for the Central Excavation Training Institute (CETI) Singrauli in the year 1979 for promotion in the post Dumper Operator Grade-II is fair and justified? To what relief the concerned workman is entitled to?”

2. The case is received from Ministry of Labour on 21.05.2014. After receipt of the reference both parties are noticed. The Sponsoring Union files their written statement on 17.06.2014 and the management files their written statement on 07.11.2014. Thereafter rejoinder and document filed by the parties. One witness Examined each side. Documents of the workman marked as Ext. W-1 to W-20 .

3. The case of the workman is Md. Alamgir, the concerned workman was appointed as Category –V Driver with effect from 22.11.1976.

4. It is also submitted by the workman that it is an establishment policy of the CCL in respect of promotion of category –V Driver to the post of Dumper Operator, Excavation Plant, that firstly to get them trained in any of the Central Excavation training Institute (CETI) as Dumper operator Trainee and thereafter to promote them to the post of Dumper operator for the better utilization of their service.

5. The Superintending Engineer (Excv.) B&K Area of M/s. CCL issued circular vide SE (EXCV.) /B &K 36/Trg./1979 dated 05.03.1979 invited application from those category V driver of different project of B&K Area to sponsor their names for the post of Dumper Operator Trainee. According Md. Alamgir who was fulfilling all the conditions applied through proper channel for selection as Dumper operator trainee and requested the project officer to sponsor his name by forwarding his application to the superintending Engineer (Excv.) B&K Area, Kargali.

6. It is further submitted by the workman that the management of Giridih Colliery after due and proper scrutiny, the Superintending Engineer (Excv.) B& K Area , Kargali selected 5 category- V Drivers of Giridih Colliery including workman concerned Md. Alamgir as suitable for the post of Dumper Operator Trainee vide office order No. SE(Excv.)B&K/36/Trg. /727/79 dated 30.03.1979. and requested the project Officer,Giridih Colliery to direct selected driver including Md. Alamgir to report to Principal, CETI, Singrauli for Training.

7. It is further submitted by the workman that in response to the above said letter of Superintending Engineer (Exc.) B&K Area, Kargali. The project Officer M/s CCL, Giridih Colliery Excluding the name of Md. Alamgir, referred and sent following HV. Driver to Singuruli to report to the Principal, CETI Singrauli for training vide letter Ref. No. PO (G) projected Training /79/ 2189 dated 31.03.1979 and vide letter No. 2797 dated 06.04.1979. The management of M/s. CCL, Giridih project maliciously and discriminately excluded the name of Md. Alamgir and he was not informed and not released to report the principal CETI Singrauli along with other workmen concerned who were junior to Md. Alamgir. The management debarred the workman concerned for training of Dumper Operator with an ulterior motive. Due to the aforesaid illegal and Discriminatory action of the management, the service condition of Md. Alamgir was miserably and adversely effected and the workman concerned was debarred by mala fide intention to get entry in the Excavation plant and cadre as Dumper operator like other concerned workmen junior to him.

8. It is further submitted by the workman that he submitted his representation several times and claimed his due promotion against the aforesaid illegal and Discriminatory action of the management. hence Industrial Dispute arose and he filed a writ petition WP (S) No. 4527 of 2006 in Hon'ble High Court and Hon'ble High Court disposed the writ petition with a direction to raise industrial dispute before the appropriate form.

9. On the other hand the case of the management is that the Hon'ble Supreme Court also held that though the court can not import limitation period when statute does not prescribed the same it does not mean that irrespective of facts of circumstances of each case a stale claim must be entertained.

10. It is further submitted by the management that the concerned workman was initially appointed as Light Vehicle Driver cat-V vide appointment letter AGM (CJ)/APTT/ Accident/1/76/612 dated 11.11.76 and he joined at Sudamdh under M/s BCCL on 20.11.1976, later on the workman concerned made a request for his transfer and accordingly he was transferred to Giridih colliery in capacity of Light Vehicle Driver Cat-V. The management invited application from the drivers of different projects of B&K Area vide circular dated 05.03.1979 for sponsoring their names to Central Excavation Training institute Singrauli for the training those Driver are having below 35 years, literate and have a valid H.T. License.

11. It is further submitted by the management that the concerned workman applied for sponsoring his name for the training in response to aforesaid circular and during the scrutiny it was noticed that the workman concerned did not possess the authorized driving license to drive heavy transport vehicle at the relevant time. Since the workman concerned has not fulfilled the criteria as mentioned in the aforesaid circular, his name was not sponsored to the Central Excavation Training Institute, Singrauli for training.

12. Short point to be decided in this reference whether not referring the workman's application for the Central Excavation Training Institute, singrauli in the year 1979 for promotion to the post of Dumper operator Grade-II is proper or not, and what reliefs he is entitled.

13. The workman firstly appointed at Central Jharia Area of M/s BCCL in the post of Driver -V on 1976 and he was transferred to Giridih Area M/s CCL in existing capacity as Driver Cat-V.. The case of the workman is that his application was ready to be forwarded for training it was prepared and signed and approved by G.M (B&K), Kargali, and at the time of sending some one scored his name 14. The workman filed the photocopy of his recommendation which was to be sent by Superintending Engineer and it was also approved by the General manager. But in first site shows that the name of the workman was mischievously scored. It is not known, the scored was before signing or after. It clearly appears that it is scored after it being signed for the following reasons. The name of the workman is in serial No. 7 and serial No. 8 digit has not been changed. Sl. Nos. 1 to 7 are drivers including the workman but Sl. No. 8 is a mazdoor who was sent for training. what for Nos-7 was eliminated . The same is posted in the award for clarity . It is extreme lapses of management . On close scrutiny of following letter, which is marked as Ext. W-5 in which it is clearly mentioned , the copy of Ext-W-5 is quoted below:-

**Central Coal Fields Ltd.
Office of the Supdtg. Engineer (Exc.) B&K
Kargali, , P.O Bermo (Giridih)**

Ref. No. letter Ref No.SE(Exc.)B&K/36/Trg./727-7
Dated, the 30.03.1979

To,

The Project Officer, Kargali
The Project Officer, Giridih
The Colliery Manager, NSD Colliery

Dear Sir,

The following candidate have been found suitable for Dumper Operator training as per circular . Your are requested to direct the concerned persons to report to Principal CETI , Singarauli for training of Dumper Operator which will be started on and from 2nd April 1979 . The candidates should reach singarauli by 2nd April 79 morning.

- | | |
|------------------------------|--|
| 1. Sri Chhatru Prasad, | Driver of NSD Colliery |
| 2. Sri Radha Krishna Jaiswal | -----do----- |
| 3. Sri Abdul Rauf | HV Driver of Giridih Colliery |
| 4. Sri Shankar Prasad | Driver -do- |
| 5. Sri Nizamuddin | Driver -do- |
| 6. Sri Ram Bijay Singh | Driver -do- |
| 7. Sri Md. Alamgir , | Driver -do- (It is made line on the Name this in the exhibit) |
| 8. Sri Manik Mahto, | Mazdoor , Kargali Colliery |

This issues with the approval of G.M (B&K)

Yours faithfully

Sd/-

Supdtg. Engineer (Exc). B&K Kargali

C.C to:-

1. The Principal, CETI, Ranchi
2. The Supdt. (Mines) (T/D),This issue was discussed with him on 28.03.1979 at Ranchi, Since the time at your disposal is very short, the undersigned has scrutinized all the 23 applications on behalf of Supdt. (M)(T/D)/Principal, CETI and selected the above 8 candidates.
3. The G.M (Exc.) Ranchi
4. The G.M. (B&K) Kargali
5. The Sr. E.E. (Exc.) Kargali
6. The E.E. (Exc.) Giridih
7. The Area Training Officer(B&K) Kargali

Sd/-

Supdtg. Engineer (Exc.) B&K , Kargali

15. This Ext. W-5 is very much material, in which it is mentioned that 23 applicant applied for Dumper operator Trainee. All applications has been scrutinized and above 8 persons are selected for training at principal CETI singrauli, it is also mentioned that above mentioned candidate have been found suitable for Dumper Operator training as per circular. But once this Office Order is issued and circulated all concerned but after that some one is mischievously scored the serial no. 7 without any initial. It means this scored is not official. It is also noticed that in above 8 persons only one Sri Abdul Rauf is HV Driver and rest is simply Driver. All are sent to training but concerned workman is not sent, it is felt that concerned workman is intentionally droppedfrom Ext-W-5 by some one. It is extreme lapse of the management.

16. One another things is that after perusal of Chart of seniority of the workman concerned, quoted below:-

Sl. No.	Name	Coming to Cat-V Driver	Date of promotion to Dumper operator Cat-C
1.	Sri Ram Bijay Singh	31.03.1977	07.07.1980
2.	Sri Shankar Prasad	31.03.1977	07.07.1980
3.	Sri Abdul Rauf	31.11.1978	05.09.1982
4.	Sri Md. Nizamuddin	27.12.1978	18.05.1981
5.	Sri Md. Alamgir	20.11.1976	25.01.1986

On perusal of this seniority, it is strange that all workmen are cat-V Driver and promoted after 3-4 years in the post of Cat-C but the workman concerned is promoted after 10 years. This list shows the discrimination among these workmen with the workman concerned.

17. As per Ext. W-20, it is counter affidavit of the management filed before the Hon'ble High Court, Ranchi at the time of filing of a writ petition of workman concerned in WP (S) No. 4527 of 2006 at Hon'ble High Court, Ranchi. Some portion of counter quoted below:-

- 20. “The petitioner alongwith the other 7 employees were found suitable for Dumper Operator for training as per circular and thereby the concerned project officers were requested to direct the concerned persons to report to principal, Central Excavation Training institute , Singrauli for training of Dumper operator which was to be commence on and from 02.04.1979.
- 22. It is stated that as a matter of fact at the relevant time all the workmen appearing in the letter dated 30.03.1979 (Annexure 2 to the writ application) were verbally informed to report to principal CETI , Singrauli for training of Dumper operator in pursuant to the letter dated 30.03.1979. It is started that in that course of event, petitioner was also informed to attend principal, Central Excavation Training Institute, Singrauli for training of Dumper Operator.
- 23. It is only stated that only on verbal information as aforesaid, the workman's name appearing in the letter dated 30.03.1979 (Annexure 2 to the writ application) reported to Central Excavation Training institute, Singrauli for training of Dumper operator, but the fact remains that the petitioner despite of verbal information did not report to principal , Central Excavation Training Institute , Singrauli for training of Dumper operator, in any event of the matter, the petitioner did not attend of Dumper operator at Singrauli which held on and from 2nd April 1979.
- 25. In these view of the matter petitioner's promotion to the post of Dumper Operator Grade-II w.e.f. 07.07.1980 does not and cannot arise.

18. In view of all above admission in the Hon'ble High Court, the MW-1 wrongly deposed in his evidence here.

19. As per counter of the management in the Hon'ble High Court, it is the admission of the management that the workman informed verbally to report CETI for training but the workman did not attend the CETI. As per Ext. W-7 Sri Ram Bijay Singh was on leave, he could not go to CETI for training but another letter issued for Ram Bijay Singh to attend CETI but in this event the eorkman concerned was again discriminated and the workman was again not informed.

20. It is submitted that the workman raised dispute late . but things when will come to the notice of the workman can raise dispute. **Hari Prasad Shiv Shankar Shukla Vs A.D.Divalkar , AIR 1957 SC 121: 1957 SCR 121 referred to :** Merely because the Industrial Dispute Act, does not provide for a limitation for raising the dispute, it does not mean that dispute can be raised at any time and without regard to the delay and reasons therefore. It is only reasonable that the dispute should be referred as soon as possible after they have arisen and after conciliation proceeding have failed.

21. The fact remains that there was delay, though not a fatal one, Therefore the lapses of management and discrimination to the workman as discussed above, the workman must not suffer. Hence he be treated as Dumper Operator Grade II from 07.07.1980 on which date all concerned workmen were promoted and he be given all financial benefits till his superannuation.

22. Considering the facts and circumstance of this case, I hold that the action of the Management of CCL, B&K Area, Kargali in not referring the application of Md. Alamgir for the Central Excavation Training Institute (CETI) Singarauli in the year 1979 for promotion in the post Dumper Operator Grade-II is not fair and justified. Hence he be treated as Dumper Operator Grade-II and he be promoted w.e.f 07.07.1980 on which date all concerned workmen were promoted and he be given all financial benefits till his superannuation as well as retirement benefits.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 13 फरवरी, 2018

का.आ. 338.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक

अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 52/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.02.2018 को प्राप्त हुआ था।

[सं. एल-20012/81/2011-आईआर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 13th February, 2018

S.O. 338.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 52 of 2011) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 09.02.2018.

[No. L-20012/81/2011-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference No. 52 of 2011

Employer in relation to the management of Sijua Area of M/s. BCCL

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer

Appearances:

For the Employers : Shri D.K. Verma, Advocate

For the workman : Shri R. R. Ram, Rep.

State : Jharkhand

Industry : Coal

Dated : 08/01/2018

AWARD

By order No.-L-20012/81/2011 IR-(CM-I), dated. 24/11/2011, the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of Sub-Section (1) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act.1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of Loyabad Colliery of M/S BCCL in dismissing Sri Brinchi Kumar Roy from the services of the company vide letter dated 02.01.2006 is fair and justified? To What relief the workman is entitled to?”

2. The case is received from the Ministry of Labour on 12. 12.2011. After receipt of reference , both parties are noticed. But after long delay, the Sponsoring Union files their written statement on 15.06.2017. And the management also files their written statement -cum-rejoinder on 24.10.2017.

3. The point involved in the reference is that the workman has been dismissed from his services w.e.f 02.01.2006. But neither the evidence nor and document marked by either side.

4. The short point involved in the reference is that the workman has been dismissed from his services on long absenteeism.

5. During Preliminary hearing. it is revealed that the case is dismissal of workman for long absence on duty. But he has already out of service for last 12 years. It is felt to give another chance to the workman to serve.

6. Considering the facts and circumstances of this case, I hold that he be taken into job as a fresh employee verifying the service excerpt regarding Date of Birth subject to proper identification. But the workman be kept under probation for the period of two year. Therefore the question of granting back wages does not arise at all.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 13 फरवरी, 2018

का.आ. 339.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मैसर्स बी. सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं-1 धनबाद के पंचाट (संदर्भ सं. 53/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.02. 2018 को प्राप्त हुआ था।

[सं. एल-20012/118/2015-आईआर (सीएम-I)]

एम. के सिंह, अनुभाग अधिकारी

New Delhi, the 13th February, 2018

S.O. 339.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court-1, Dhanbad (Ref. No. 53 of 2015) as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 09.02.2018.

[No. L-20012/118/2015-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10(1) (d) (2A) of I.D.Act. 1947.

Reference No. 53 of 2015

Employer in relation to the management of Sijua Area of M/s. BCCL.

AND

Their workman

Present : Shri R.K.Saran, Presiding Officer

Appearances:

For the Employers : Shri D.K.Verma, Advocate.

For the Workman : Shri Akhater Khan, Rep

State : Jharkhand.

Industry : Coal.

Dated 08/01/2018

AWARD

By order No.-L-20012/118/2015-IR (CM-I), dated. 09/10/2015, the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of Sub-Section (1) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act.1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of Sijua Area of M/S BCCL in dismissing Sri Mantu Bauri M/Loader w.e.f . 23.07.1997 is fair and justified? To What relief the concerned workman is entitled to?”

2. The case is received from the Ministry of Labour on 02. 11.2015. After receipt of reference, both parties are noticed. But after long delay, the Sponsoring Union files their written statement on 19.02.2016. And the management also files their written statement -cum-rejoinder on 21.02.2017

3. The point involved in the reference is that the workman has been dismissed from his services w.e.f 23.07.1997. But neither the evidence nor document marked by either side.

4. The short point involved in the reference is that the workman has been dismissed from his services on long absenteeism.

5. During Preliminary hearing, it is revealed that the case is dismissal of workman for long absence on duty. But he has already out of service for last 20 years. It is felt to give another chance to the workman to serve.

6. Considering the facts and circumstances of this case, I hold that he be taken into job as a fresh employee verifying the service excerpt regarding Date of Birth subject to proper identification. But the workman be kept under probation for the period of two year. Therefore the question of granting back wages does not arise at all.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 13 फरवरी, 2018

का.आ. 340.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मैसर्स बी. सी.सी.एल. के प्रबंधनत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं-1 धनबाद के पंचाट (संदर्भ सं. 58/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.02.2018 को प्राप्त हुआ था।

[सं. एल-20012/115/2007-आईआर (सीएम-I)]

एम. के सिंह, अनुभाग अधिकारी

New Delhi, the 13th February, 2018

S.O. 340.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court-1, Dhanbad (Ref. No. 58 of 20017) as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 09.02.2018.

[No. L-20012/115/2007-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of ID.Act. 1947.

Reference: No.58/2007

Employer in relation to the management of Kusunda Area of M/s. BCCL

AND

Their workman

Present : Shri R.K.Saran, Presiding Officer.

Appearances:

For the Employers : Shri S.N.Ghosh, Advocate

For the workman : Shri R.R.Ram, Advocate.

State : Jharkhand.

Industry- Coal

Dated- 17/01/ 2018

AWARD

By order No. L-20012/115/2007-IR (CM-1) dated 16/11/2007, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDEULE

“Whether the action of the management of Bassuria Colliery of M/s. BCCL in dismissing the services of Late Rasik Marandi, M/Loader w.e.f. 17/03/2004 is justified and legal ? If not to what relief is the dependent family of the concerned workman entitled and from what date?”

2. The case is received from the Ministry of Labour on 28.11.2007. After receipt of reference, both Parties are noticed, But after long delay, workman files their written statement on 26.03.2010. The management files their written statement-cum-rejoinder on 19.12.2011. No witness examined from both side.

3. Firstly the case closed and No dispute award passed dated 10/11/14 on none appearance of the workman but the defendant of deceased workman again appears and files a petition to restore the award and recall the case. Heard both side and Award dated 10.11.2014 is recalled. Thereafter the workman files document which is marked as Ext-W-1 and document of management is also marked as Ext. M-1 to M-8.

4. The case of the workman is that the concerned workman Rasik Marandi, now deceased was an employee of the management and he was appointed on 02.12.1986 as Miner Loader. He had worked under ground mines and cutting and loading of coal.

5. It is further submitted by the workman that on 27.09.1996 in the course of his employment he met a serious accident in the under ground mines due to coal fall from roof. He was immediately admitted into Regional Hospital at Bhuli and after three days he was intentionally released by the management on 30.09.1996 to avoid reportable injury and did not prepare the statutory injury report and kept in dark to Director General of Mines Safety, Dhanbad.

6. The management played trick and advised the concerned workman to take rest at home and he will be paid his full wages . He was then given treatment at the Central Hospital of the management and he was further referred to AIIMS New Delhi for his further treatment and was given Rs. 5000/- in advance to meet medical expenses.

7. The concerned workman was unable to move without the help of four young persons, However he was taken to AIIMS New Delhi by his family member and was getting treatment there but the management thereafter did not take care of the workman and on demand did not pay any further advance, after taking some treatment at AIIMS New Delhi the concerned workman returned back due to want of money but the management did not give him any help.

8. It is further submitted by the workman that after return from AIIMS the concerned workman reported for duty on any light work and refer to him in medical board for fitness but no body listen him and the management intentionally neglected and issued charge sheet to concerned workman for absence on duty vide charge sheet No.BC/A6/PD/02/1840 dated 04/07.10.2002 and holding ex parte enquiry and holding the workman guilty and punish without going into the merit of the case and dismissed him from service w.e.f. 17.03.2004 on absenteesm instead of declaring him unfit for original work Hence he files a petition before the ALC (C) Dhanbad for set aside the dismissal order and give service to his dependent. After filling of case before the ALC and lapse of some time the concerned workman died. Accordingly Industrial Dispute arose.

9. On the other hand the case of the management, the workman concerned Rasik Marandi , M/Loader was issued a charge sheet vide order No. 1840 dated 4.10.2002 for unauthorised absence as per the provision of the certified standing order of the company under para 26.1.1 for being habitual absence.

10. The Disciplinary Authority had decided to get the matter enquiry into by appointing enquiry officer and presenting Officer. The enquired officer fixed the date of enquiry several dates. The concerned workman was present on 26.12.2003 and sought time as his co-worker was not present thereafter the charge sheeted workman did not attend the enquiry nor sent any intimation on the date fixed for enquiry on 12.01.2004, one more chance was given as last chance to the charge sheeted workman fixing the date of enquiry 10.02.2004 otherwise the enquiry would be held ex-parte.

11. Enquiry was held and the enquiry officer had submitted his enquiry report establishing the misconduct committed by the charge sheeted workman and impose the punishment of dismissal upon the charge sheeted workman.

12. Short point to be decided in this case whether the son of dismissed workman is entitled to any relief or not?

(ii) Whether the dismissal of the workman is valid or not?

13. The management counsel submitted that the workman concerned remained absent continuously on duty and he also remained absent during departmental enquiry for which enquiry was an ex-parte enquiry and after enquiry, he was found guilty and he was dismissed.

14. On the other hand the son of the workman submitted that his father was a under ground miner and while working he met mines accident and the management without reporting the matter to DGMS gave money to be treated in hospital. Evidencing that the son of workman filed the medical report which clearly shows, while the workman was working in the mines a stone 9"x4"x4" fall on his helmet, he sustained injury which is indicated in medical report marked as Ext. W-1 signed by medical superintendent medical officer and safety officer. Ext.W-2 shows that the workman went to AIIMS New Delhi and Rs. 10,000/- sanctioned for medical expenses as advance. Other connected medical documents shows that the medical officer recommended the workman to be treated at AIMS.

15. As per Ext W-3 series, it the large document of treatment of concerned workman and its prescription filed by workman relating to BCCL Hospital w.e.f. 1996 to 8.04.2000 and he was in continuous on medical treatment. On 08.04.2000 he was referred to Sr. ortho Surgeon AIIMS, New Delhi. Thereafter as per Ext. W-2 he was referred to AIIMS and sanctioned of Rs. 10,000/- for medical treatment but very strange to say that he was paid only 5000/-.

16. As per Ext. W-9 series the workman concerned files several petition for prayer to extend date of enquiry due to his inability to attend the domestic enquiry. In which Ext.W-9 one letter written by the workman concerned to sr. personnel manager-cum-enquiry officer through medical officer, regional Hospital Bhuli in which medical officer forwarded the

letter on 24.04.2003.it means when the enquiry proceed he was admitted at Bhuli regional hospital for medical treatment. How he would have attended the enquiry but the management is in hurry and proceed ex parte enquiry and imposed punishment as he was guilty for unauthorised absence.

17. Though the workman proceeded for treatment, the management did not follow up matter took it casually. It is the case of the workman. The workman became invalid and unable to attend the duty but the management without giving invalid certificate to the workman, dismissed him on the ground of absenteeism for patching up his own fault as the workman seriously injured in the mines and was not given any compensation and also without giving any information to Director General of Mines Safety. The management playing trick just paid Rs. 5000/- to the workman concerned and send outside the mines.

18. In this context one judgement of Madras High court in **2014 LLR 1192 in WP (MD) No. 8459/2005 dt. 4.04.2014 (K. Parasuraman Vs Southern Petro Chemical Industries Corporation Ltd.)** is quoted below :-

INDUSTRIAL DISPUTES ACT, 1947- Section 11 A – Industrial Tribunal/Labour Court have power to protect the workmen from the possible vindictive and arbitrary dismissal or discharge from service on fanciful, trivial and imaginary grounds in accordance with the Rules of reason and justice and not according to private opinion – But satisfaction of the Tribunal/Labour Court is challengeable if the same is arbitrary, vague and fanciful.

19. Therefore, considering the facts and circumstances of the case I hold that the dismissal is improper and unjustified, accordingly dismissal of the workman is set aside and dependent of the deceased workman be given job waiving all formalities. Death benefits be also given to the deceased workman

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 13 फरवरी, 2018

का.आ. 341.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मैसर्स बी. सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं-1 धनबाद के पंचाट (संदर्भ सं. 92/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.02.2018 को प्राप्त हुआ था।

[सं. एल-20012/555/2000-आईआर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 13th February, 2018

S.O. 341.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court-1, Dhanbad

(Ref. No. 92 of 2001) as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 09.02.2018.

[No. L-20012/555/2000-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10(1) (d) (2A) of I.D.Act. 1947

Reference No. 92 of 2001

Employer in relation to the management of Kusunda Area of M/s. BCCL.

AND

Their workman

Present : Shri R.K.Saran, Presiding Officer

Appearances:

For the Employers : Shri Ganesh Prasad, Advocate

For the Workman : Shri Pintu Mondal, Rep

State:-Jharkhand

Industry : Coal.

Dated : 05/01/2018

AWARD

By order No.-L-20012/555/2000 IR-(CM-I), dated. 29/03/2001, the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of Sub-Section (1) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act.1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of M/s. BCCL in dismissing Sri Suresh Paswan M/Loader from the services w.e.f. 01.04.99 is fair and justified? If not, to What relief is the concerned workman entitled?”

2. The case is received from the Ministry of Labour on 24.04.2001. After receipt of reference, both parties are noticed. But after long delay, the Sponsoring Union files their written statement on 28.07.2017. And the management also files their written statement -cum-rejoinder on 13.12.2017.

3. The point involved in the reference is that the workman has been dismissed from his services w.e.f 01.04.1999. But neither the evidence nor document marked by either side.

4. The short point involved in the reference is that the workman has been dismissed from his services on long absenteeism.

5. During Preliminary hearing, it is revealed that the case is dismissal of workman for long absence on duty. But he has already out of service for last 18 years. It is felt to give another chance to the workman to serve.

6. Considering the facts and circumstances of this case, I hold that he be taken into job as a fresh employee subject to identity proof with reference to form “B” & verifying Date of Birth subject to proper identification. But the workman be kept under probation for the period of two year. Therefore the question of granting back wages does not arise at all.

This is my award .

R. K. SARAN, Presiding Officer

नई दिल्ली, 13 फरवरी, 2018

का.आ. 342.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मैसर्स बी. सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम व्यायालय नं-1 धनबाद के पंचाट (संदर्भ सं. 158/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.02.2018 को प्राप्त हुआ था।

[सं. एल-20012/143/1999-आईआर (सी-I)]

एम. के सिंह, अनुभाग अधिकारी

New Delhi, the 13th February, 2018

S.O. 342.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No.-1, Dhanbad (Ref. No. 158 of 1999) as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 09.02.2018.

[No. L-20012/143/1999-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947

Reference: No. 158/1999

Employer in relation to the management of Batacolla Area M/S BCCL

AND

Their workman

Compt. Case No. 2/2003

(Arising Out of ref 158/1999)

Janta Mzdoor Sangh
Represented by Beni Singh
Secretary of Golukdih
OCP, M/s. BCCL

...Complainant

Vs

Management of Golukdih OCP
Through General Manager
Bastacolla Area , M/s. BCCL

...Opp. Party

Present: Shri R.K.Saran, Presiding Officer

Apearances:

For the Employers : None

For the workman : None

State : Jharkhand Industry- Coal

Dated-17/01/ 2018

AWARD

By order No. L-20012 /143/1999-IR(C-I) dated 16/09/1999, the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub –section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEUDLE

“Whether the demand of Union to regularise Sri Basudeo Kumar, General Mazdoor as Clerk w.e.f. 25.01.1993 is justified? If so, what relief the workman is entitled to and from what dates?”

2. After receipt of the reference , both parties are noticed. But after appearance of workman for certain dates, the workman did not attend, Case remain pending since long alongwith the complaint petition. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed in respect to reference and Complaint. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 13 फरवरी, 2018

का.आ. 343.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, प्रबंधन, हिंदुस्तान एयरोनॉटिक्स लिमिटेड, क्यूबन रोड, बैंगलोर व अन्य एवं उनके कर्मचारी के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बैंगलोर के पंचाट (संदर्भ सीआर सं. 25/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.08.2017 को प्राप्त हुआ था।

[सं. एल-14012/02/2012-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 13th February, 2018

S.O. 343.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (CR No. 25/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Hindustan Aeronautics Limited, Cubbon Road, Bangalore and their workman, which was received by the Central Government on 14.08.2017.

[No. L-14012/02/2012-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
BANGALORE**

DATED : 04th AUGUST 2017

PRESENT : Shri V. S. RAVI, Presiding Officer

C R No. 25/2012

I Party	II Party
<p>Sh. A Lourdu Swamy, S/o Anthony, No. 616, 7th Cross, Ambedkarnagar, Koramangala, Bangalore – 560047</p> <p>Advocates for I Party: Mr. Shivaraj B.K, Mr. Raghuram & Mr. A.J. Srinivasa</p>	<p>1. The Management of Hindustan Aeronautics Limited, Represented by its Chairman Cubbon Road, Bangalore – 560001</p> <p>2. The Managing Director, Hindustan Aeronautics Limited, Bangalore Complex, Vimanapura Post, Bangalore – 560017</p> <p>Advocates for II Party: Mr. T. Raja Ram & Mr. Goreppa</p>

AWARD

1. The Central Government vide Order No.L-14012/02/2012-IR(DU) dated 07.08.2012 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the action of the management of Hindustan Aeronautics Limited, Bangalore is justified in not confirming the services of Shri A. Lourdu Swamy amongst 44 others term contact labour (i.e. Sh. Gunashekhar and 44 others) as per the settlement dated 22.06.2009 of the High Court decision. If not, what relief the said workman is entitled to?”

2. The I Party submitted in the claim statement as follows:-

The I Party workmen state that they have joined the work in canteen of the Air Craft Division of the II Party on 16.02.1982. The I Party have been discharging their duties continuously to the full satisfaction of his superiors until they have been refused employment w.e.f. 10.01.2008. Therefore, the I Party workmen pray that, this Court may be pleased to answer the points of dispute in favour of the I Party workmen and direct the II Party to reinstate and regularize the I Party by confirming their service from the date when the co-workers have been regularized and confirmed and grant all other consequential benefits of reinstatement and regularization including full back wages, continuity of service etc., in the interest of justice and equity.

3. However, in the Judgment passed by the Hon'ble Supreme Court in Civil Appeal Nos. 9332-9333/2010, dated 26.02.2016, in the case of Nashik workers Union Vs Hindustan Aeronautics Limited, it is clearly held as follows:- "As we have set aside the order passed in L.P.A. No. 84 of 2006 and opined that the 'appropriate Government' in relation to the respondent company (HAL) is the State Government, the matter has to be remitted to the High Court for fresh adjudication on merits."

4. In the above mentioned facts and circumstances, an important and preliminary point arises for consideration, with regard to the above mentioned matter as follows:- "Whether this Court lacks jurisdiction to try the present Matter?"

5. **POINT :-** In the present case, the I Party has prayed to direct the II Party/HAL Management to reinstate and regularise the I Party by confirming their services from the date when their co-workers have been regularized and confirmed and grant all other consequential benefits of reinstatement and regularization including full back wages, continuity of service, etc., in the interest of justice. Hence, it is crystal clear that as per the above mentioned judgment of the Hon'ble Supreme Court of India, this Court lacks jurisdiction to try the present matter.

6. Further, taking into consideration the above mentioned points and principles as laid down by the Lordships of the Hon'ble Supreme Court of India, this Court has no other alternative, except to follow the said judgement of the Hon'ble Supreme Court of India. In fact, the I Party has also not disputed the said details. At the same time, this Court is not expressing any opinion on other issues raised by both the sides, as this Court lacks jurisdiction to entertain the present matter of this nature and also liberty is granted to the I Party to raise the dispute before the proper, competent and appropriate Judicial Forum/Tribunal/Court within 30 days from the date of receipt of the present Award passed by this Court, in the best interest of justice, equity and fair play. Accordingly, this point is answered. Hence, the following Award is passed:-

AWARD

This Tribunal has no jurisdiction to entertain the dispute raised by the I party, particularly, in the light of the above mentioned judgement passed by the Hon'ble Supreme Court in Civil Appeal Nos. 9332-9333/2010, dated 26.02.2016, in the case of Nashik workers Union Vs Hindustan Aeronautics Limited and the present matter suffers for want of jurisdiction before this Court and liberty is given to the I party to raise the dispute before the proper, competent and appropriate Judicial Forum/ Tribunal/Court, within 30 days from the date of receipt of the present Award, by adopting the procedure known under the law, in the best interest of justice, equity, good conscience and fair play and this Court has not expressed any opinion regarding the various other issues raised by both the parties, as the present matter has been disposed of, on the limited ground of jurisdiction point alone, and also, without costs, for the above mentioned facts and circumstances.

(Dictated, transcribed, corrected and signed by me on 4th August, 2017)

V. S. RAVI, Presiding Officer

नई दिल्ली, 13 फरवरी, 2018

का.आ. 344.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आयुक्त, एमसीडी (उत्तर), नई दिल्ली एवं उनके कर्मचारी प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, दिल्ली सं. 1 के पंचाट (संदर्भ सं. 59/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07.02.2018 को प्राप्त हुआ था।

[सं. एल-42011/142/2014-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 13th February, 2018

S.O. 344.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 59/2015) of the Central Government Industrial Tribunal-cum-Labour Court, 1, Delhi as shown in the Annexure, in the Industrial Dispute between the employers in relation to the Commissioner, MCD (North), New Delhi and their Workman, which was received by the Central Government on 07.02.2018.

[No. L-42011/142/2014-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, ROOM NO. 511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI – 110 075

ID No. 59/2015

Shri Hari Lal S/o Shri Hari Dutt, represented by
MCD General Mazdoor Union,
Room No. 95, Barrack No.1/10,
Jam Nagar House, New Delhi

...Workman

Versus

The Commissioner,
Municipal Corporation of Delhi (North),
9th Floor, Civic Centre, Minto Road,
New Delhi – 110 002

...Management

AWARD

Reference under Section 10 sub section (2A) of the Industrial Disputes Act, 1947(in short the Act) was received from the Central Government, Ministry of Labour and Employment vide its orders No.L-42011/142/2014-IR(DU) dated 19.01.2015 for adjudication of the industrial dispute with the following terms:

'Whether Shri Hari Lal S/o Shri Hari Dutta, is entitled to the status of Chaudhary with effect from the date on which any order was passed wherein Shri Hari Lal was given responsibility of looking after the work of Chaudhary and all consequential benefits revised from time to time?'

2. Both the parties were put to notice and the workman Shri Hari Lal filed his statement of claim, wherein it is alleged that he has been allotted work of Chaudhary with effect from 15.11.1989 by the competent officers of Horticulture Department and was posted under Deputy Director of Horticulture, West Zone and thereafter he was transferred to Karol Bagh Zone. The workman has since superannuated on 30.09.2011 and till the date of his retirement, he was performing duties of Garden Chaudhary. However, he has been denied pay scale of Chaudhary, revised from time to time. Recruitment rules of Chaudhary is not notified and no qualification is prescribed for promotion to the post of Garden Chaudhary. The workman has got payment of salary in the lower pay scale of mali, i.e. in the pay scale of Rs.2550-3200 instead of Rs.3050-4590 revised from time to time and has been denied the scale of Chaudhary, i.e. for his performing the duty of Chaudhary with effect from 15.11.1989 and revised from time to time and this action of the management is alleged to be illegal and unjustified. Management has fixed different pay scales of mali, Chaudhary etc. in accordance with their job and non-grant of pay scale to the workman herein amounts to forced labour and unfair labour practice. Duties of mali is presently of an unskilled workman whereas duties of Chaudhary is skilled in nature belonging to Group C category of employees. Action of the management is alleged to be illegal & unjustified and amounts to unfair labour practice.

3. It is also averred in para 8 of the statement of claim that Hon'ble High Court, Delhi, in the matter of Jai Chand vs Municipal Corporation of Delhi (CW 6514/2001) has disapproved the non-payment of wages for those malis who are working on the post of Chaudhary vide its judgement dated 02.05.2003. After the above judgement of the Hon'ble Court, Municipal Corporation of Delhi (Horticulture Department) has also issued order No. ADC(Hor.)/ AO(Hort)/DA-VII/05/457 dated 04.03.2005.

4. Despite affording of several opportunities, management failed to put in their appearance, as a result of which management was proceeded ex-parte on 02.02.2017. Thereafter, ex-parte evidence of Shri B.K. Prasad was recorded. Shri B.K. Prasad tendered in evidence his affidavit which is Ex.WW1/A. WW1 also relied on documents Ex.WW1/1 to Ex.WW1/6.

5. I have heard Shri B.K. Prasad, A/R for the workman.

6. The moot question which arises for consideration before this Tribunal is whether the workman herein is entitled to the status of Chaudhary in the pay scale of Rs.950-1500 revised from time to time alongwith all consequential benefits.

7. It is clear from evidence as well as pleadings on record that the workman was appointed as regular mali with effect from 01.04.1988. Case of the workman is that he is performing duties of officiating Chaudhary since 01.01.1988 on the directions of officials of Horticulture Department. The case of the workman is that he is performing duties of Garden Chaudhary on the directions of Horticulture Department. It was strongly urged on behalf of the workman that in view of decision given by Hon'ble High Court in the case of MCD vs Sultan Singh as well as MCD vs Mahipal Singh there is hardly any scope for the plea that the workman was not having requisite qualification so as to promote him to the post of Garden Chaudhary. It is clear from perusal of Ex.WW1/2 which is the list of malis looking after the work of Garden Chaudhary employed with Horticulture Department of Civil Lines Zone, that they are regular Garden Chaudhary who were performing duties as regular/officiating Chaudhary. In the said list, name of the workman appears at serial No.14. There is also a column 'Working Since' and in the same is mentioned as 'April 1989'. There is no justification in not promotion to the post of Chaudhary in as much similarly situated other workers who were performing duties of Chaudhary, i.e. acting Chaudhary have been granted pay scale of Garden Chaudhary after judgement dated 27.07.2011 rendered by the Hon'ble High Court in the case of MCD vs. Sultan Singh as well as MCD vs. Mahipal(WP 5550 of 2010). Operating portion of the judgement in Sultan Singh (supra) of the Hon'ble Division Bench is as under:

"28. Considering the entire facts and circumstances it is apparent that the claim of the respondents have always been that they should be paid the difference in pay of Mali/Chowkidar and the Garden Chaudhary as they were made to work on the post of Garden Chaudhary whereas the petitioner had first denied that they worked as Garden Chaudharies, then took the plea that the Assistant Director (Horticulture) was not competent to ask the respondents to work as Garden Chaudharies and that the respondents cannot be appointed to the post of Garden Chaudharies in accordance with the recruitment rules. There is no doubt that respondents are not claiming appointment to the post of Garden Chaudharies on account of having worked on ad-hoc basis on the post of Garden Chaudhary contrary to rules or that some of them not having the requisite qualifications are entitled for relaxation.

29. In the entirety of facts and circumstances therefore, the learned counsel for the petitioner has failed to make out any such grounds which will impel this Court to exercise its jurisdiction under Article 226 of the Constitution to set aside the orders of the Tribunal dated 29th January, 2010 and 7th October, 2010 as no illegality or un-sustainability or perversity in the orders of the Tribunal has been made out.

30. The writ petition is, therefore, dismissed. Parties are left to bear their own cost."

8. It is further clear that SLP was also filed by MCD before the Hon'ble Apex Court vide IA No.2 WP for special leave S20069/2011 MCD vs. Sultan Singh and others which was also dismissed as withdrawn vide order dated 09.04.2012. It is further clear that the Hon'ble High Court in Sultan Singh case strongly deprecated the stand taken by the management that the workmen were not possessing requisite qualification or have not qualified the test etc. It was clarified that since the workmen were discharging duties to the post of Garden Chaudhary, a such, workmen were entitled for the salary of Garden Chaudhary and competent authority need not look into anything else except the fact that the workman had worked as Garden Chaudhary. Therefore, stand taken by the management that the workman herein could not qualify the test conducted by Education Consultant India Limited is without any merit and has no relevance so far as question of grant of salary against the post of Garden Chaudhary is concerned.

9. It is not out of place to mention here that even if the workman herein was not a party in Sultan Singh case referred above, judgement of the Hon'ble High Court is binding on the management and management is required to implement the same in letter and spirit and the same is judgement in rem, and all similarly situated workmen are required to be accorded the benefit of the said judgement of the Hon'ble High Court, which have become final. There is no question of even plea of delay and laches when management had not led any evidence to prove the same. The Hon'ble High Court has decided an abstract proposition of law, i.e. a mali who is performing duty as officiating/acting Chaudhary is entitled to the salary/wages of Chaudhary. Law is fairly settled that if a person is working on a higher post,

on adhoc or temporary basis, even such workman is entitled to salary/wages of higher post, unless rules or regulations specifically provides otherwise. I find support to this view from Secretary vs. Lieutenant Governor Port Blair (1998 Lab.I.C. 598), yet in another case, Hon'ble Apex Court while considering that question of grant of benefits to similarly situated employees who were not party to the writ petition or lis in the case of State of Uttar Pradesh vs. Arvind Kumar Srivastava (2015) 1 SCC 347 observed as under:

"The moot question which requires determination is as to whether in the given case, approach of the Tribunal and the High Court was correct in extending the benefit of earlier judgment of the Tribunal, which had attained finality as it was affirmed till the Supreme Court. The legal principles that can be culled from the judgments, cited both by the appellants as well as the respondents, can be summed up as under:

(1) Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

(2) However, this principle is subject to well recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.

(3) However, this exception may not apply in those cases where the judgment pronounced by the Court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the Court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated person. Such a situation can occur when the subject matter of the decision touches upon the policy matters, like scheme of regularization and the like (see K.C. Sharma & Ors. v. Union of India (supra)). On the other hand, if the judgment of the Court was in personam holding that benefit of the said judgment shall accrue to the parties before the Court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence."

10. Similarly, contention of delay and laches and not having requisite qualification, including passing of trade test was raised in the case of MCD Vs. Rajbir Singh. The workman, in the contention of the management, was not entitled to the pay scale of Garden Chaudhary from the date from which he was officiating as Garden Chaudhary. The above contention of the management was out-rightly rejected by the Hon'ble High Court of Delhi by upholding the decision of the learned Tribunal by putting reliance on the case of MCD Vs. Sultan Singh which was decided on 27.07.2011.

11. Since the workman was officiating on the post of Garden Chaudhary since 01.04.1989, as such, he is entitled to the pay scale of Garden Chaudhary with effect from 01.04.1989. As a corollary, management is liable pay the difference of wages of mali vis-a-vis Garden Chaudhary from the date when the workman herein was performing duties and functions of Garden Chaudhary, i.e. from 01.04.1989 till the date of his retirement on 30.06.2014. An award is, accordingly, passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A. C. DOGRA, Presiding Officer

Dated : February 6, 2018

नई दिल्ली, 13 फरवरी, 2018

का.आ. 345.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, आयुक्त, दिल्ली नगर निगम (पूर्व), नई दिल्ली एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, दिल्ली सं. 1 के पंचाट (संदर्भ सं. 129/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07.02.2018 को प्राप्त हुआ था।

[सं. एल-42011/135/2016-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 13th February, 2018

S.O. 345.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 129/2017) of the Central Government Industrial Tribunal-cum-Labour Court, 1, Delhi as shown in the Annexure, in the Industrial Dispute between the employers in relation to the

Commissioner, Municipal Corporation of Delhi (East), New Delhi and their Workman, which was received by the Central Government on 07.02.2018.

[No. L-42011/135/2016-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 1, ROOM No. 511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI – 110 075

ID No. 129/2017

Shri Dharam Pal S/o Shri Jaggan Singh, represented by

The President,

MCD General Mazdoor Union,

Room No.95, Barrack No.1/10,

Jam Nagar House, New Delhi

...Workman

Versus

Municipal Corporation of Delhi, through

The Commissioner,

Municipal Corporation of Delhi(East),

Jawahar Lal Nehru Marg,

New Delhi

...Management

AWARD

Reference under Section 10 sub section (2A) of the Industrial Disputes Act, 1947(in short the Act) was received from the Central Government, Ministry of Labour and Employment vide its orders No.L-42011/135/2016-IR(DU) dated 09.05.2017 for adjudication of the industrial dispute with the following terms:

'Whether the workman Shri Dharampal S/o Shri Jaggan Singh is entitled to the status of Chaudhary in the pay scale of Rs. 950-1500 revised from time to time with effect from 01.04.1989 alongwith all consequential benefits? If not, then what relief the workman is entitled to?"

2. Both the parties were put to notice and the workman Shri Dharam filed his statement of claim, wherein it is alleged that he has been allotted work of Chaudhary with effect from 01.01.1988 by the competent officers of Horticulture Department and was posted under Civil Lines Zone and thereafter he was transferred to Shahdara Zone. The workman has since superannuated on 30.06.2014 and till the date of his retirement, he was performing duties of Garden Chaudhary. However, he has been denied pay scale of Chaudhary, revised from time to time. Recruitment rules of Chaudhary is not notified and no qualification is prescribed for promotion to the post of Garden Chaudhary. The workman has got payment of salary in the lower pay scale of mali, i.e. in the pay scale of Rs.750-940 instead of Rs.950-1500 revised from time to time and has been denied the scale of Chaudhary, i.e. for his performing the duty of Chaudhary with effect from 01.06.1988 and revised from time to time and this action of the management is alleged to be illegal and unjustified. Management has fixed different pay scales of mali, Chaudhary etc. in accordance with their job and non-grant of pay scale to the workman herein amounts to forced labour and unfair labour practice. Duties of mali is presently of an unskilled workman whereas duties of Chaudhary is skilled in nature belonging to Group C category of employees. Action of the management is alleged to be illegal & unjustified and amounts to unfair labour practice.

3. It is also averred in para 10 of the statement of claim that Hon'ble High Court, Delhi, in the matter of Jai Chand vs Municipal Corporation of Delhi (CW 6514/2001) has disapproved the non-payment of wages for those malis who are working on the post of Chaudhary vide its judgement dated 02.05.2003. After the above judgement of the Hon'ble Court, Municipal Corporation of Delhi (Horticulture Department) has also issued order No. ADC(Hor.)/ AO(Hort)/DA-VII/05/457 dated 04.03.2005.

4. Despite affording of several opportunities, management failed to put in their appearance, as a result of which management was proceeded ex-parte on 02.02.2017. Thereafter, ex-parte evidence of Shri B.K. Prasad was recorded. Shri B.K. Prasad tendered in evidence his affidavit which is Ex.WW1/A. WW1 also relied on documents Ex.WW1/1 to Ex.WW1/6.

5. I have heard Shri B.K. Prasad, A/R for the workman.

6. The moot question which arises for consideration before this Tribunal is whether the workman herein is entitled to the status of Chaudhary in the pay scale of Rs.950-1500 revised from time to time alongwith all consequential benefits.

7. It is clear from evidence as well as pleadings on record that the workman was appointed as regular mali with effect from 01.04.1988. Case of the workman is that he is performing duties of officiating Chaudhary since 01.01.1988 on the directions of officials of Horticulture Department. The case of the workman is that he is performing duties of Garden Chaudhary on the directions of Horticulture Department. It was strongly urged on behalf of the workman that in view of decision given by Hon'ble High Court in the case of MCD vs Sultan Singh as well as MCD vs Mahipal Singh there is hardly any scope for the plea that the workman was not having requisite qualification so as to promote him to the post of Garden Chaudhary. It is clear from perusal of Ex.WW1/2 which is the list of malis looking after the work of Garden Chaudhary employed with Horticulture Department of Civil Lines Zone, that they are regular Garden Chaudhary who were performing duties as regular/officiating Chaudhary. In the said list, name of the workman appears at serial No.14. There is also a column 'Working Since' and in the same is mentioned as 'April 1989'. There is no justification in not promotion to the post of Chaudhary inasmuch similarly situated other workers who were performing duties of Chaudhary, i.e. acting Chaudhary have been granted pay scale of Garden Chaudhary after judgement dated 27.07.2011 rendered by the Hon'ble High Court in the case of MCD vs. Sultan Singh as well as MCD vs. Mahipal(WP 5550 of 2010). Operating portion of the judgement in Sultan Singh (supra) of the Hon'ble Division Bench is as under:

"28. Considering the entire facts and circumstances it is apparent that the claim of the respondents have always been that they should be paid the difference in pay of Mali/Chowkidar and the Garden Chaudhary as they were made to work on the post of Garden Chaudhary whereas the petitioner had first denied that they worked as Garden Chaudharies, then took the plea that the Assistant Director (Horticulture) was not competent to ask the respondents to work as Garden Chaudharies and that the respondents cannot be appointed to the post of Garden Chaudharies in accordance with the recruitment rules. There is no doubt that respondents are not claiming appointment to the post of Garden Chaudharies on account of having worked on ad-hoc basis on the post of Garden Chaudhary contrary to rules or that some of them not having the requisite qualifications are entitled for relaxation.

29. In the entirety of facts and circumstances therefore, the learned counsel for the petitioner has failed to make out any such grounds which will impel this Court to exercise its jurisdiction under Article 226 of the Constitution to set aside the orders of the Tribunal dated 29th January, 2010 and 7th October, 2010 as no illegality or un-sustainability or perversity in the orders of the Tribunal has been made out.

30. The writ petition is, therefore, dismissed. Parties are left to bear their own cost."

8. It is further clear that SLP was also filed by MCD before the Hon'ble Apex Court vide IA No. 2 WP for special leave S20069/2011 MCD vs. Sultan Singh and others which was also dismissed as withdrawn vide order dated 09.04.2012. It is further clear that the Hon'ble High Court in Sultan Singh case strongly deprecated the stand taken by the management that the workmen were not possessing requisite qualification or have not qualified the test etc. It was clarified that since the workmen were discharging duties to the post of Garden Chaudhary, a such, workmen were entitled for the salary of Garden Chaudhary and competent authority need not look into anything else except the fact that the workman had worked as Garden Chaudhary. Therefore, stand taken by the management that the workman herein could not qualify the test conducted by Education Consultant India Limited is without any merit and has no relevance so far as question of grant of salary against the post of Garden Chaudhary is concerned.

9. It is not out of place to mention here that even if the workman herein was not a party in Sultan Singh case referred above, judgement of the Hon'ble High Court is binding on the management and management is required to implement the same in letter and spirit and the same is judgement in rem, and all similarly situated workmen are required to be accorded the benefit of the said judgement of the Hon'ble High Court, which have become final. There is no question of even plea of delay and laches when management had not led any evidence to prove the same. The Hon'ble High Court has decided an abstract proposition of law, i.e. a mali who is performing duty as officiating/acting Chaudhary is entitled to the salary/wages of Chaudhary. Law is fairly settled that if a person is working on a higher post, on adhoc or temporary basis, even such workman is entitled to salary/wages of higher post, unless rules or regulations specifically provides otherwise. I find support to this view from Secretary vs. Lieutenant Governor Port Blair (1998 Lab.I.C. 598), yet in another case, Hon'ble Apex Court while considering that question of grant of benefits to similarly situated employees who were not party to the writ petition or lis in the case of State of Uttar Pradesh vs. Arvind Kumar Srivastava (2015) 1 SCC 347 observed as under:

"The moot question which requires determination is as to whether in the given case, approach of the Tribunal and the High Court was correct in extending the benefit of earlier judgment of the Tribunal, which had attained finality as it was affirmed till the Supreme Court. The legal principles that can be culled from the judgments, cited both by the appellants as well as the respondents, can be summed up as under:

(1) Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of [Article 14](#) of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

(2) However, this principle is subject to well recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.

(3) However, this exception may not apply in those cases where the judgment pronounced by the Court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the Court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated person. Such a situation can occur when the subject matter of the decision touches upon the policy matters, like scheme of regularization and the like (see [K.C. Sharma & Ors. v. Union of India](#) (supra)). On the other hand, if the judgment of the Court was in personam holding that benefit of the said judgment shall accrue to the parties before the Court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence.”

10. Similarly, contention of delay and laches and not having requisite qualification, including passing of trade test was raised in the case of MCD Vs. Rajbir Singh. The workman, in the contention of the management, was not entitled to the pay scale of Garden Chaudhary from the date from which he was officiating as Garden Chaudhary. The above contention of the management was out-rightly rejected by the Hon’ble High Court of Delhi by upholding the decision of the learned Tribunal by putting reliance on the case of MCD Vs. Sultan Singh which was decided on 27.07.2011.

11. Since the workman was officiating on the post of Garden Chaudhary since 01.04.1989, as such, he is entitled to the pay scale of Garden Chaudhary with effect from 01.04.1989. As a corollary, management is liable pay the difference of wages of mali vis-a-vis Garden Chaudhary from the date when the workman herein was performing duties and functions of Garden Chaudhary, i.e. from -01.04.1989 till the date of his retirement on 30.06.2014. An award is, accordingly, passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A. C. DOGRA, Presiding Officer

Dated : February 2, 2018

नई दिल्ली, 13 फरवरी, 2018

का.आ. 346.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मुख्य महाप्रबंधक (डब्ल्यू.एस.), एमटीएनएल, नई दिल्ली और अन्य एवं उनके कर्मचारी प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, दिल्ली सं. 1 के पंचाट (संदर्भ सं. 254/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07.02.2018 को प्राप्त हुआ था।

[सं. एल-40011/44/2015-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 13th February, 2018

S.O. 346.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 254/2016) of the Central Government Industrial Tribunal-cum-Labour Court, 1, Delhi as shown in the Annexure, in the Industrial Dispute between the employers in relation to the Chief General Manager (W/S), MTNL, New Delhi & others and their Workman, which was received by the Central Government on 07.02.2018.

[No. L-4011/44/2015-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

**BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT NO. 1, DELHI**

ID No. 254/2016

The General Secretary,

All India General Kamgar Union (Regd.),
H.O. U-90, Shakarpur,
Delhi – 110 092

...Workman

Versus

- (i) The Chief General Manager (W/S),
MTNL, 3rd Floor, 9, CGO Complex,
New Delhi – 110 003
- (ii) The Manager,
M/s. Zephyr Ltd.,
A-3, 2nd Floor, Sector 59,
NOIDA, Uttar Pradesh – 201 307

...Managements

AWARD

A reference under clause (d) of sub-section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act) was received from the Central Government, Ministry of Labour and Employment for adjudication vide letter No.L-40011/44/2015-IR(DU) dated 02.12.2015 for adjudication of an industrial dispute with the following terms:

'Whether the cessation of service of the workmen due to non-renewal of contract between contractor and the principal employer and non-absorption of the workmen by the new contractor of the principal employer constitutes termination? And will such cessation of service would be covered under section 33(1) of the ID Act, 1947? Are the workmen entitled to any relief?'

2. Claim statement was filed on behalf of the claimant union averring that All India General Kamgar Union (Regd.) under the Trade Union Act, 1926 and is competent to file claim on behalf of the claimant. The claimants are active members of the union and were raising various legal demands through the union. Management was pressurizing the workmen to withdraw the case, which the union refused. This enraged the management and during pendency of the industrial dispute, the management terminated services of the workmen without following provisions of law. Thus the action of the management is by way of victimization, arbitrary, unjustified and malafide. The management is a renowned telecommunication service provider in Delhi established under the Ministry of Communication, Government of India and the management is employing workmen on temporary/casual/contract basis since the last several years. Initially claimants were directly employed by MTNL and later on sham contractors were interpolated without the knowledge of the workmen just with a view to hoodwink and deprive the workmen of their legitimate rights. The workmen are neither being paid minimum wages nor any overtime wages for the work performed by them. The workmen have been working continuously and the work being performed by them is permanent and perennial in nature. The workmen were not employed for a specific period or against a specific project and as such their service would cease to exist on change of contractors. The claimants were neither paid retrenchment compensation nor served any notice or were they paid any notice pay in lieu thereof. Many juniors to the terminated workmen were retained by the management. The contracts entered into between the contractor and the management were sham and perfect paper work to deprive the workmen of their legitimate benefits. The workmen were under the direct supervision and administrative control of MTNL. The workmen have worked continuously 240 days in the calendar year preceding their termination. The workmen have been thrown out of the job with hostile discrimination without following the principle of 'Last come first go'. The workmen visited the management several times and requested for their reinstatement but to no avail. Demand notice was also sent to the management, which remained un-responded. Finally, it has been prayed that the workmen may be reinstated with full back wages.

3. Claim was demurred by MTNL wherein various preliminary objections, inter alia of the claim not being accompanied by an affidavit as well as list of workmen, there being no relationship of employer and employee between the claimant and MTNL, union having no locus standi to file the claim etc. On merits the management has denied the various material averments. The alleged workmen were never employed by MTNL hence there is no question of victimizing the workmen or terminating the workmen due to their alleged collective demands. The claimants were never employed by MTNL at any point of time, hence there arises no question of paying them wages, overtime etc.. The management has denied the other material averments made in the statement of claim.

4. Statement of defence was also filed by M/s. Zephyr Ltd.(in short the contractor) wherein it is averred that the workmen have never joined the contractor and it was also nor were they informed that various legal demands are already pending or any arbitration is pending when tender from MTNL was received, despite being employees of the previous contractor of MTNL. Minimum wages were being paid to the workmen during tenure of tender. Since while hiring manpower after receiving work from MTNL, the workmen had not appeared to seek job, hence new people were engaged to fulfil work order requirement. As regards the terms of contract, the same was prepared by MTNL.

5. Thereafter, the case was listed for filing of rejoinder and framing of issues. However, neither the workmen nor any authorized representative appeared on their behalf despite affording various opportunities. It is, thus, apparent that

the claimant is no more interested in progress of the case on merits. Hence, this Tribunal is left with no alternative but to pass a 'No Claim' award. An award is, accordingly, passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A. C. DOGRA, Presiding Officer

Dated : February 6, 2018

नई दिल्ली, 13 फरवरी, 2018

का.आ. 347.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, आयुक्त, पूर्वी आयुक्त, पूर्व दिल्ली नगर निगम, नई दिल्ली एवं उनके कर्मचारी प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, दिल्ली सं. 1 के पंचाट (संदर्भ सं. 131/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07.02.2018 को प्राप्त हुआ था।

[सं. एल-42011/146/2016-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 13th February, 2018

S.O. 347.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 131/2017) of the Central Government Industrial Tribunal-cum-Labour Court, 1, Delhi as shown in the Annexure, in the Industrial Dispute between the employers in relation to the Commissioner, East Delhi Municipal Corporation, Delhi and their Workman, which was received by the Central Government on 07.02.2018.

[No. L-42011/146/2016-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, DELHI

ID No. 131/2017

The President,
MCD General Mazdoor Union,
Room No.95, Barrack No.1/10,
Jam Nagar House,
New Delhi

...Workman
Versus

The Commissioner (East),
East Delhi Municipal Corporation,
Near Patparganj, Shahdara,
Delhi – 110 032

...Managements

AWARD

A reference under clause (d) of sub-section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act) was received from the Central Government, Ministry of Labour and Employment for adjudication vide letter No.L-42011/146/2016-IR(DU) dated 01.05.2017/ 15.05.2017 for adjudication of an industrial dispute with the following terms:

'Whether Smt. Suman & 3 other workmen whose names as shown in Annexure –A are entitled to the wages as are admissible to their regular counterparts for the period of their daily wage/muster roll employment and whether they are also entitled to counting of 50% of their service rendered as daily wage/muster roll workmen for the purpose of pensionary benefits and if so, what directions are necessary in this respect?'

2. Details of the workmen as mentioned in Annexure annexed with the schedule of reference are as under:

S. No	Name	Designation	Date of employment on muster roll	Date of regularization	Posting
(i)	(ii)	(iii)	(iv)	(v)	(vi)
1.	Smt. Suman,	Mali	26.07.2000 to	01.04.2005	Horticulture, Shahdara

	W/o Shri Neki Ram		31.03.2005		
2.	Tilak Ram, S/o Shri Kalu Ram	Mali	30.12.1984 to 31.03.1990	01.04.1990	Horticulture, Shahdara, North
3.	Surat Singh, S/o Shri Jage Ram	Mali	06.06.1980 to 31.03.1988	01.04.1988	Horticulture, Shahdara North
4.	Smt.Sitawati, W/o Shri Jageshwar Prasad	Coolie	16.08.1994 to 19.09.2005	20.09.2005	Ward No.212, Engineering M-III

3. It is further alleged that as per LPA No.573/2013 titled North Delhi Municipal Corporation Vs. Harpal Singh, Hon'ble High Court has granted equal pay for equal work with effect from 01.04.1998 onwards and 50% of their muster roll services were counted for pensionary benefits. These workmen are similarly situated with those workmen who got award/order and thus the claimants are also entitled for equal pay for equal work from 01.04.1988 onwards alongwith 50% of their muster roll service may be counted for pensionary benefits, in view of circular dated 16.06.1988. In the light to the above office circular, management has followed concept of equal pay for equal work which has been upheld by the Hon'ble High Court vide LPA No.573/2013. Lastly, workmen have prayed that they may be awarded equal pay for equal work and 50% of their services rendered as daily wager/muster roll, alongwith all consequential benefits with effect from 01.04.1988.

4. Despite affording of several opportunities, management failed to put in their appearance, as a result of which management was proceeded ex-parte on 02.02.2017. Thereafter, ex-parte evidence of Shri B.K. Prasad was recorded. Shri B.K. Prasad tendered in evidence his affidavit which is Ex.WW1/A. WW1 also relied on documents Ex.WW1/1 to Ex.WW1/3.

5. I have heard Shri B.K. Prasad, A/R for the workmen.

6. The moot question which arises for consideration before this Tribunal is whether the workmen herein are entitled to the equal pay for equal work with effect from 01.04.1988 and are also entitled to 50% other wages of service rendered as daily wagers/muster roll.

7. It is clear from evidence as well as pleadings on record that the workmen were initially working as mali/Coolie on muster roll basis on regular basis from the dates as mentioned in Annexure A annexed to the reference/Column (v) of Para 2 above. There is also office order Ex.WW1/2, which in fact deals with grant of equal pay for equal work to the daily rated workers and compilation thereof. It has been clarified in the above office order that total monthly emoluments admissible to regular counter parts of daily rated workers at the minimum of the respective scale of pay may be multiplied by number of days in a particular month after deducting there-from the days of absence plus the days of rest falling in the week/weeks in which the worker remained absent and the result may be divided by the number of days in the month. The figure so arrived will be the daily rate of wages of the worker and in case daily rated workers worked for all the working days in a month including admissible rest days, he is entitled to full wages admissible at the minimum stage of the respective scale of pay, including DA/HRA/CCA admissible to his regular counterparts.

8. Hon'ble Supreme Court in the case of Surinder Singh vs. Engineer-in-Chief, CPWD (ATR 1986 SC 1976) decided on 17.01.1986, dealt with the question of equal pay for equal work in respect of daily rated workmen performing same duties which was being performed by their regular counterparts in the department. After discussing the ambit and scope of Article 14 of the Constitution of India, it was held that there should be equal pay for equal work of equal value. It makes no difference whether such workmen are employed against sanctioned post or not so long as they are performing the same duties. They must receive same salary and conditions of service must also be the same. Hon'ble Supreme Court also expressed anguish that most of the workers are kept in service on temporary basis as daily wage workers without their service being regularized, which is completely against the spirit of Article 14 of the Constitution of India.

9. Hon'ble Supreme Court in the case of Director General Works, CPWD vs Devender Singh considered the question of regularization as well as payment of equal wages for such daily rated workmen. Writ appeal was filed against judgement dated 18.04.2004 of the Single Judge, whereby the writ appeal filed by the management was dismissed and award passed by Industrial Tribunal No.2 was upheld. It was also the case of daily rated workers working on muster roll who were posted in various Divisions of the CPWD. In the said case, there is clear cut mention in para 9 of the judgment that when services of a junior has been regularized, there is no justification to deny such relief to workman who was senior to such worker., otherwise it would amount to discrimination, which is not permissible under the law, as has been held in Secretary State of Karnataka vs. Uma Devi (2006 4 SCC 1).

10. Hon'ble High Court in Devender Singh case(supra) referred to the decision of the Hon'ble Apex Court in the case of Bal Kishan Vs. Delhi Administration and observed as under:

10. In service, there could be only one norm for confirmation or promotion of persons belonging to the same cadre. No junior shall be confirmed or promoted without considering the case of his senior. Any deviation from

this principle will have demoralizing effect in service apart from being contrary to Article 16(1) of the Constitution.

11. There is also judgement dated 04.04.2006 of the Hon'ble High Court which also deals with the same matter, pertaining to the case of Vijay Chand. In the said judgement also, Tribunal has passed an award in respect of workman Shri Vijay Chand on the premise that regularization was granted to equally placed other three workmen, and there was no reason to deny the relief of regularization to Shri Vijay Chand who was similarly placed like the other three workmen. As such, direction was made for considering the case of the workman for regularization. Thereafter, matter was again taken by way of SLP before the Hon'ble Apex Court in the case titled Union of India vs. Vijay Chand decided on 07.01.2011. Contention of the management was rejected and order of regularization by the High Court and that of the Industrial Tribunal was reaffirmed as under:

'In our view, the direction given by the Tribunal for consideration of the respondent's case for regularization of service, as was done in the case of other three similarly situated persons, was legally correct and justified and the High Court did not commit any error by refusing to interfere with the order of the Tribunal. In the facts and circumstances of the case, we do not consider it to be a fit case for exercise of jurisdiction by the court under Article 136 of the Constitution.'

The special leave petition is accordingly dismissed.'

12. In Director General: Works, CPWD vs Karam Singh and others, wherein it was a case where the workmen were also party to the said case. Contention of the management regarding denial of relief of regularization and equal wages to such workmen who were performing similar kind of duties like their regular counter parts, was rejected by the Hon'ble High Court of Delhi and the calculation of the wages in terms of office order dated 21.10.1990 applicable for daily rated workers was upheld. It was further held when a particular award has attained finality, such daily rated workers were direct employee and are entitled for equal wages, there is no question of entertaining such plea time and again. Workman was held entitled to the recovery of amounts due under the impugned recovery certificate as ordered by the Tribunal.

13. In the case of Randhir Singh vs. Union of India [1982] 1 SCC 618; it was a case where question of equal pay for equal work was considered in respect of driver constables in Delhi Police. Drivers in the police department were demanding the same pay scale which was being given to other drivers under the services of Delhi Administration. Claim was upheld by the Hon'ble Apex court as under:

'Held, the circumstances that the persons belonged to different departments of the government is not sufficient to justify different scales of pay irrespective of the identity of their powers, duties and responsibilities. If anything by reason of his investiture with the powers, functions and privileges of a police officer, the petitioner's duties and responsibilities were more arduous. The answer of the respondents that the drivers of the police force and the other drivers belong to different departments and that the principle of equal pay for equal work is not a principle which the courts may recognize and act upon is unsound and irrational. The writ petition was, therefore, allowed. The respondents were directed to fix the scale of pay of the petitioner and the driver-constables of the Delhi Police Force, atleast at par with that of the drivers of the Railway Protection Force with effect from January 1, 1973.'

14. Same view has been taken in a latest judgement of the Hon'ble Apex Court in State of Punjab Vs. Jagjit Singh (2017) Lab.I.C. 427 whereby while considering concept of 'Equal pay for equal work', it was observed as under:

The principle of 'equal pay for equal work' can be extended to temporary employees (differently described as work-charge, daily-wage, casual, ad-hoc, contractual, and the like). It is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work, cannot be paid less than another, who performs the same duties and responsibilities. Certainly not, in a welfare state. Such an action besides being demeaning, strikes at the very foundation of human dignity. Any one, who is compelled to work at a lesser wage, does not do so voluntarily. He does so, to provide food and shelter to his family, at the cost of his self respect and dignity, at the cost of his self worth, and at the cost of his integrity. For he knows, that his dependents would suffer immensely, if he does not accept the lesser wage. Any act, of paying less wages, as compared to others similarly situated, constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation.

15. In NDMC Vs. Harpal Singh (LPA No.573/2013 decided on 27.08.2013), same question was considered by Hon'ble Apex Court and firstly whether the workmen were entitled to wages as was paid by CPWD to daily wagers employed under CPWD and secondly, whether the respondents would be entitled to 50% service reckoned as daily wages to be taken into account for the purpose of pensionary benefits.

16. It is clear from the above judgement that in view of the circular dated 16.06.1998 50% of their muster roll services were counted for pensionary benefits. It is further clear from legal position discussed above that the workmen who have been performing duties of particular nature is entitled to the pay-scale of the same post.

17. As per writ petition in the matter of Ompal and others, Hon'ble High Court allowed equal pay for equal work and observed in Para 3 as under:

'Moreover, learned counsel for the respondent has also sought to place reliance upon the communication dated 19.05.1982 issued by the Engineering Department of the MCD which records that the Engineering Department is following the norms of CPWD/Delhi Administration, PWD and all the scales applicable to the workers in CPWD/Delhi Administration, PWD are being implemented in the department. The aforesaid recommendation has been approved by the Standing Committee vide a decision No.2059/Stg. Dated 22.05.1982. In this regard, reference is drawn to the judgement of the Division Bench of this Court in LPA No.126/2010 and connected matters titled MCD Vs. Abid Ali and Othrs.'

18. Though management has taken up the above case by way of S.L.P., but Hon'ble Apex Court has only modified the order of payment of equal pay for equal work with effect from 01.01.1998 as is clear from Para 10, which is reproduced hereunder:

'10. The only modification which would now be warranted would be the fact that there exists policy circular dated June 16, 1988 which was notified by MCD and it reads as under:

'The wages of the workers will be calculated in the manner indicated in the circulars issued by CPWD and will be effective from 01.04.1988 only in view of very tight financial position of the MCD and the ongoing process of regularization of daily wages employees according to phased programme besides other extra facilities already extended to them by different departments. Because of large number of daily wages employees working in MCD, the increase in wages may bring additional financial liability to the tune of about Rs.6.5 crores and we may have to cut down the civic services drastically if the payment is to be made from the date earlier than 01.04.1998. Proportionate increase will also have to be allowed to part time workers depending upon the actual duration of their duties. In order to get over the requirement of additional hands for anti-malaria operations, for short duration only, the department may engage 300 unskilled workers at the rate to be worked out on the basis of Rs.875.00 per month. A preamble for approval of increased rates of wages be taken to standing committee positively within two weeks.

11. The policy circular requires differential in wages to be made after April 01, 1988.'

19. The above judgement of the Hon'ble High Court were taken care of by the management when they have issued letter dated 16.06.1988 Ex.WW1/2. It is clear that in Ex.WW1/2 under Clause 3 of the said letter, management has increased the wages of the staff as per the above judgement as per the details given in the above clause. Letter also provides that workmen working on the said post are also entitled to the wage from the date when they were working on the said post. Thus, wages of the workmen is to be calculated in the manner given in the above circular/letter. It is therefore held that the workmen, as mentioned in Annexure A to the reference received from the appropriate Government, is entitled to equal pay for equal work with effect from 01.04.1988 and onwards and are entitled to 50% of their services rendered as daily wages/muster roll as per policy of 'Equal Pay for Equal Work' during the period of muster roll for the purpose of pensionary benefits. An award is, accordingly, passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A. C. DOGRA , Presiding Officer

Dated : February 5, 2018

नई दिल्ली, 15 फरवरी, 2018

का.आ. 348.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मैसर्स नुमालीगढ़ रिफायनरी लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, गुवाहाटी के पंचाट (संदर्भ सं. 10/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.02.2018 को प्राप्त हुआ था।

[सं. एल-30012/3/2014-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 15th February, 2018

S.O. 348.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 10/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Guwahati now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the M/s. Numaligarh Refinery Limited and their workman, which was received by the Central Government on 12.02.2018.

[No. L-30012/3/2014-IR (M)]

ANNEXURE

IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM

Present : Shri Mrinmoy Kumar Bhattacharjee, M.A., LL.B. Presiding Officer,
CGIT-cum-Labour Court, Guwahati.

Ref. Case No. 10 of 2014

In the matter of an Industrial Dispute between :

The Management of Numaligarh Refinery Limited, ...Management/O.P.
Guwahati, Assam

Vrs

Workman Sri Raja Nath Taye, Dispur, Assam. ...Claimant/workman

APPEARANCES

For the Workman. : Mr. A. Dasgupta, learned Sr. Advocate.

Mr. A. Kundu, Learned Advocate.

For the Management : Mr. D.Sahu, Learned Advocate.

Ms. M. Medhi, learned Advocate.

Date of Award: 31.01.2018

AWARD

1. The present reference arose out of an Industrial Dispute between the petitioner/claimant Sri Raja Nath Taye and the Management of Numaligarh Refinery Limited, Assam. According to the Central Government, an Industrial Dispute exists between the Management of Numaligarh Refinery Limited and their workman in respect of the matters which have been specified in the Schedule as under:

SCHEDEULE

“Whether the action of the management of M/s. NRL in not regularizing the services of Sri Raja Nath Taye in the post of Admin Assistant although he fulfills all the criteria of qualification, experience and other conditions as in the Recruitment Rules and is discharging his functions effectively since 1996 on the plea that he is working as manpower supplier contractor against his will is just, proper and justified. If not, what relief the workman Sri Raja Nath Taye is entitled for?”

2. On receipt of notices both the parties appeared and submitted their respective claim statement and written statement. The petitioner's case, in brief, is as follows:

3. Petitioner Sri Raja Nath Taye stated in his claim statement that since his joining in the month of November, 1996 he was engaged as a casual Office Assistant by the Manager (P & A) of NRL and he also used to sign the Attendance Register along with the co-employees. He also stated that he used to discharge the usual duties of an Office Assistant and sometime the management also extended him the benefits of salary advance as well as overtime. It is also claimed that with effect from 01.04.1998 the management enhanced his daily wages. He was also entrusted the responsibility to receive the Office Dak on behalf of the NRL. He also claimed to have received a certificate from the Senior Manager (Administration) of the NRL. He also claimed being an employee of the NRL as he used to draw salary by signing the salary Register along with other employees. But the management of NRL surprisingly from the month of September, 1999 started to show him as a contract labour by doing some paper work against his wishes. According to the petitioner, by the aforesaid contract, the management converted a casual employee to a contract labour completely illegally and resorted to unfair labour practice. It is further stated that the workman however followed all the instructions of the management with an expectation that someday his service would be regularized. However though he approached the management on several occasions for regularizing his service, it was not done. Ultimately, he was compelled to file an application before the Regional Labour Commissioner (C) at Guwahati and the conciliation proceeding was initiated. It was also mentioned by him that though he had ample knowledge about the working in the NRL, he was shown by the management as a contractor by making some paper works. It was also claimed that the job in which he was working at the time of the initiation of the conciliation, was a job of perennial nature. It was further stated that he was not regularized but the management regularized the services of some workers who were in the same footing as of him. In the concluding part of his claim statement the workman stated that since the originals of the copies of the documents he submitted along with his claim statement are with the management, the management be directed to produce the same before the Tribunal.

4. On receipt of the copy of the claim statement of the petitioner the management submitted its written statement denying the basic claim of the petitioner/workman that he was directly engaged by the management as a casual employee. It was stated in the written statement of the management that the petitioner Sri R.N.Taye was a manpower supplier and provided manpower to the management and continued with the management as a service provider having his service Tax Registration. It was also denied that he was ever an Office Assistant. It was also stated that he was operating as a Contractor with the management since 1999 and he had never been an employee in the establishment of NRL. The management also denied that R.N.Taye was continuously engaged in NRL since 1996 and also stated that his subsequent claim for regularization was nothing but baseless. In brief, the management stated that as the petitioner Sri R.N.Taye had never been a workman in the establishment of NRL his claim should be outright rejected.

5. After receipt of the copy of the W.S. submitted by the management, petitioner Sri R.N.Taye filed an Addl. Claim Statement stating that the recruitment rules and Policy about which the management has narrated in their written statement has no relevancy in the instant case. He also named some casual workers allegedly junior to him who were regularized by the management. It was further reiterated that though he himself was a casual employee in the office of the management, suddenly from September, 1999 he was projected as a labour Contractor through execution of some paper works against his wishes. He also stated in his Addl. Claim statement that the copies of the documents which he submitted along with claim statement were all the documents of the management and issued and maintained by the competent authorities of the management. He again reiterated his prayer for directing the management to produce these before this Tribunal. The remaining portions are more or less the repetition of the facts stated by him in his claim statement.

6. This Tribunal heard on the matter of the prayer of the workman for calling the documents from the management side and it is reflected in the order dated 21.5.2015 that the learned counsel for the management candidly accepted the contention for calling of the documents and also assured the Tribunal that he would inform the management about the matter. Vide order 21.5.2015 this Tribunal directed the management to produce the original of the documents listed by the petitioner. It appeared from the order dated 02.09.2015, that the management submitted they could not trace out the documents as called for vide order dated 21.5.2015 and hence prayed for exempting the management from filing the original documents as sought for. That petition was allowed by the Tribunal.

7. The workman side examined two witnesses and the management side examined three. It may be mentioned here that some of the photo copies of the documents submitted by the workman were admitted into evidence on being admitted by the management. It may be mentioned here that the management never categorically denied the existence of those documents when they were asked to submit the original documents.

8. During argument learned Sr. Counsel appearing for the workman submitted that the workman started to work in NRL as an Office Assistant on casual basis from 13.11.1996 and several exhibits namely Exhibits-4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 were exhibited which categorically indicate that he was a casual worker directly under the NRL till his service was discontinued by the Management. He also referred to a part of the examination-in-chief of the workman wherein the workman stated that while he was serving as Office Assistant in NRL, suddenly from the month of September, 1999 he was projected by the Management as a contract labourer through execution of some papers works against his wishes. The learned counsel for the workman further referred to several decisions of the Hon'ble Supreme Court to bolster his claim that the workman deserves to be regularized by the Management. The learned counsel referred to a decision of the **Hon'ble Supreme Court in "State of Karnataka & Ors –vs—M.L.Kesari & Ors" reported in 2010 AIR(SC) 2587** wherein it was held that regularization and absorption of daily wage workers and contractual workers were to be done as one time step in view of the decision of the Hon'ble Supreme Court in "State of Karnataka –vs—Uma Devi reported in 2006 (4) SCC1". The learned Counsel also referred another judgment of **the Hon'ble Supreme Court in Steel Authority of India Ltd. –vs—National Union Waterfront Workers and Ors reported in (2001) 7 SCC 1** wherein it was held that where the Appropriate Government issued Notification under Section 10(1) of CLRA Act, automatic absorption was not possible though the situation would change if it was found that the contract itself was found to be sham and nominal one. To justify the principle of reasonableness in executive side, he referred to another decision of **Hon'ble Supreme Court In U.P. State Electricity Board—vs--- Pooran Chandra Pandey & Ors reported in (2007) 11 SCC 92**. Another judgment referred by the workman side was passed by **the Hon'ble Supreme Court in Secretary, State of Karnataka and Ors---vs---Umadevi (3) and Ors reported in (2006) 4 SCC 1**. Learned senior counsel for the workman side particularly referred to para-53 of the aforesaid judgment wherein the Hon'ble Supreme Court gave a direction to "*the Union of India, State Government and their instrumentalities to take steps to regularize as a one-time measure the services of such irregularly appointed employees who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the Courts or Tribunals.*"

9. The learned counsel appearing for the management side submitted that the workman was actually a supplier of manpower and contractor as would be evident from his own evidence and that in his case there was no question of legitimate expectation of regularization. He referred to a decision of **Hon'ble Supreme Court in Union of India and Anr. –vs—Arulmozhi Iniarasu & Ors. Reported in Civil Appeal Nos. 4990-4991 of 2011**, wherein it was held that "*a person who bases his claim on the doctrine of legitimate expectation, in the first instance, has to satisfy that he has relied on the said representation and the denial of that expectation has worked to his detriment. The Court could interfere only if the decision taken by the authority was found to be arbitrary.....*". Referring to the aforesaid

decision, learned counsel for the management submitted that even if the workman projected him as casual worker directly under the management, the question of legitimate expectation could come only when he had submitted representation which were arbitrarily rejected without any ground. He further added that there was absolutely nothing to show that any such representation was ever submitted by the workman. The learned counsel for the management side also referred to another decision of Hon'ble Supreme Court in State of Manipur and Anr ---vs---Ksh. Moirangninthou Singh and Ors. (Civil Appeal No.1897-1901 of 2006). In this case in para-7 of the judgment the Hon'ble Supreme Court held as under :-

"We are of the opinion that in view of the Constitution Bench Judgment of this Court in Secretary, State of Karnataka and Ors. –vs—Uma Devi and Ors. (2006) 4 SCC 1, this Court cannot direct regularization in service. Since the Court has no power to direct regularization, it also follows that it has no power to direct grant of benefits payable to the regular employees." The learned Counsel for the management side during argument also submitted a copy of the Recruitment Rules for Employees other than Officers with a copy to the workmen side which was not objected by the workman. This Recruitment Rules indicate the detailed procedure as to how the regular employees are recruited in the Numaligarh Refinery Limited. Learned Counsel appearing for the management further submitted that from the evidence it would be clear that the petitioner executed certain contract works through agreement entered into between him and the management of NRL. He further submitted that there is absolutely nothing on record to negate that the contract for supply of contractual labourer was mere a paper arrangement and was done without the consent of the concerned petitioner. He concluded his argument by stating that had the petitioner been a casual employee directly under the NRL, there would not have been a question of him being a contractor of the NRL for execution of some works. In respect to regularization of some casual workers by the management, it was stated that those persons took part in the regular selection process which was duly advertised and became successful were given regular employment.

10. In order to appreciate the submissions made by the learned Counsels for both the parties and to arrive at a decision in respect of the reference made by the appropriate Government, I shall now consider the evidence adduced by the parties and arrive at a finding on the back drop of the facts of the case and the relevant law.

11. The petitioner/workman Sri R.N.Taye was examined as workman witness No.1. He deposed that he was engaged as an Office Assistant in Numaligarh Refinery Limited for performing Clerical and Typing job on and from 13.11.1996 as casual worker. To justify his claim he exhibited certain documents namely Exhibits-4 to Exhibits-15 which, according to him, indicate his direct employment by the NRL. However at one place of his evidence-in-chief he stated that though he was working as a casual worker in NRL being directly appointed by them, suddenly from the month of September, 1999 he was projected as Labour Contractor by the management through some paper works against his will. During cross-examination he admitted that there is no written document to show that he ever approached the management before 2014 for his regularization. He also stated during cross-examination that he remembered that a written appointment letter was given to him but admitted that he could not produce that letter nor did he succeed to provide necessary explanation for not being able to produce that letter. When a copy of the letter written by NRL dated 27.8.1999 was shown to him during cross-examination he admitted that he received the letter from NRL to perform contractual job. He also admitted that he executed another agreement on 08.10.2001 to perform contractual job on certain terms and conditions. The relevant part of his cross-examination is as under :-

"On being shown copy of a letter written by NRL to me on 27.8.1999 I admit that I received that letter from the NRL to perform the contractual job. On 08.10.2001 I executed another agreement with NRL to perform the contractual job on certain terms and conditions. I entered into another agreement on 31.8.2002 for a period of three months of extension basis for a contractual job. I entered into another agreement on 17.03.2003 for two years for service of contractual job of office maintenance in NRL office at Guwahati under certain terms and conditions. I entered into another agreement for three years with effect from 28.02.2005 upto 30.03.2008. I entered another agreement on 20.11.08 for a period of 3 years. From time to time work orders were issued in my favour to perform my work as a contractual work. I exactly can not remember but perhaps TDS was deducted from my remuneration from the year 2014. It is a fact that I am a registered service provider in the Government portal, Ministry of Finance, Government of India". In the last line of his cross-examination he virtually admitted that he is a registered service provider in the Government Portal, Ministry of Finance, Government of India.

12. Workman witness No.2 Sri Tarani Sarma also stated that petitioner Sri R.N.Taye used to work in NRL as a casual worker and that he was never a contract labourer or supplier of contract labourers. He further stated that the workman was deprived since many persons working on casual basis who were even junior to the concerned workman was in fact regularly appointed by the management. A list of 17 numbers of such persons were also given by workman witness No.2. During cross-examination he stated that he does not know whether the petitioner R.N.Taye was engaged in supplying manpower to the Institution.

13. Management witness No.1, Sri Kaustabh Sharma deposed that for filling up regular posts, the management needs to notify the vacancy seeking application from the qualified eligible candidates and the recruitment is done through written examination and viva-voce. He further stated that as per record available with the management, petitioner

R.N.Taye was a Manpower Supply Contractor to the management and was a service provider having his Service Tax Registration bearing No.ADAPT9584FSD001. He exhibited a document as Exhibit-B to show the Registration as Service Provider of Sri R.N.Taye. He also stated that there was a contract between the management and the petitioner Sri R.N.Taye and Exhibit-C was exhibited to show the contract between the petitioner and the management and Exhibit-C(1) is the Agreement which shows that there was a contractual agreement between the petitioner and the management.

14. The Management witness No.2 more or less stated the same facts as stated by MW.1 and he specifically stated that the petitioner R.N.Taye was not an employee to the management and no appointment letter was issued to him by the management. It was further stated that there was no question of compelling him to enter into an agreement against his wishes as would be evident from Exhibit-A to Exhibit-C.

15. Management witness No.3 also stated more or less the same as that of MW.1 & MW.2. During cross-examination MW.3 stated the following:

"On 20.11.08 an agreement was made between Sri R.N.Taye and the authorities of NRL. Exhibit-C(2) is the said agreement. "It is specifically and distinctly understood and agreed between the OWNER and the CONTRACTOR that the CONTRACTOR shall have no right, title or interest in the site made available by the OWNER for execution of the works or in the building, structures or works executed on the said site by the CONTRACTOR or in the goods, articles, materials etc. brought on the said site (unless the same specifically belongs to the CONTRACTOR and the CONTRACTOR shall not have or deemed to have any lien whatever charge for unpaid bills will not be entitled to assume or retain possession or control of the site or structures and the OWNER shall have an absolute and unfettered right to take full possession of site and to remove the CONTRACTOR, their servants, agents and materials belonging to the CONTRACTOR, their servants, agents and materials belonging to the CONTRACTOR and lying on the site. The CONTRACTOR shall be allowed to enter upon the site for execution of the works only as a licensee simpliciter and shall not have any claim, right, title or interest in the site or the structures erected thereon and the OWNER shall be entitled to terminate such licence at any time without assigning any reason ."

16. Admittedly, there was no notification by the Government u/s 10(1) of CLAR Act in respect of NRL. Hence, the management was not restricted to avail the services of the contract labourers depending on necessity. However, even in the existence of a contract for hiring labour, if the contract itself is found to be a mere paper work, the labours hired there-under may be considered to be casual employees directly under the principal employer. This is the admitted position of law as enunciated by the Hon'ble Supreme Court in several cases as indicated in some earlier paragraphs of this "Award". Having considered the evidence on record, it appeared that the petitioner was not only a registered man power supplier contractor, he even executed certain contract works having entered into agreements with the management. It has also been proved by the management that the petitioner was a registered man power supply contractor under the relevant portal of Government of India. Another aspect which deserves consideration is the claim of the petitioner that from 1999 he was shown as a man power supplier and a contract labour himself through some paper works against his wishes. This claim of the petitioner, on the face of it, did not appear to be believable because in such a situation the petitioner definitely would not have waited for about 14/15 years for raising an industrial dispute. That apart, there was no material on record to suggest that the contract was a mere paper arrangement. There was, admittedly, no appointment letter issued to the petitioner as a casual employee. He even registered himself as a man power supplier contractor under the concerned portal of the Government of India. There was also no such document to show that having continued in NRL he approached the NRL in writing for "regularization" of his service. In view of the evidence in this matter, it was clear that the petitioner was/is not covered for "one time step for regularization" as directed by the Hon'ble Supreme Court in "Uma Devi" (supra). At the relevant time he was not a casual employee directly under the NRL and furthermore he was a registered supplier/contractor of man power to the NRL.

17. Another plea of the workman side was that the management from time to time entrusted him with official works and hence he is to be treated as a casual employee directly under the principal employer. But that plea cannot be held to sustain in view of the decision of the Hon'ble Supreme Court in "Steel Authority of India" (supra) wherein it was held that mere engagement of contract labour in connection with work entrusted to workman by the principal employer "does not culminate in emergence of master servant relationship between the principal employer and the contract labour".

18. In view of the above, it is held that Sri Raja Nath Taye was not a casual employee directly under the principal employer. He was a supplier/contractor of manpower to NRL. Accordingly, it is held that the action of the management of M/s. NRL as mentioned on the Schedule of the present reference was not unjustified. Sri Raja Nath Taye, therefore, is not entitled to any relief. The reference is answered accordingly.

Send the Award to the Ministry as per procedure.

Given under the hand and seal of this Tribunal on this 31st day of January, 2018 at Guwahati.

MRINMOY KUMAR BHATTACHARJEE, Presiding Officer

नई दिल्ली, 15 फरवरी, 2018

का.आ. 349.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मेसर्स नुमलीगढ़ रिफायरनरी लिमिटेड के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, गुवाहाटी के पंचाट (संदर्भ सं. 11/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.02.2018 को प्राप्त हुआ था।

[सं. एल-30012/2/2014-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 15th February, 2018

S.O. 349.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 11/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Guwahati now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the Management of M/s. Numaligarh Refinery Limited and their workman, which was received by the Central Government on 12.02.2018.

[No. L-30012/2/2014-IR (M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM

Present: Shri Mrinmoy Kumar Bhattacharjee, M.A., LL.B. Presiding Officer,
CGIT-cum-Labour Court, Guwahati.

Ref. Case No. 11 of 2014

In the matter of an Industrial Dispute between :

The Management of Numaligarh Refinery Limited,
Guwahati, Assam.

...Management/O.P.

Vrs.

Workman Sri Goda Dhar Das, Guwahati, Assam.

...Claimant/workman.

APPEARANCES

For the Workman. : Mr. A. Dasgupta, Learned Sr.Advocate
Mr. A. Kundu, Learned Advocate

For the Management : Mr. D. Sahu, Learned Advocate
Ms. M. Medhi, Learned Advocate

Date of Award: 31.01.2018

AWARD

1. The present reference arose out of an Industrial Dispute between the workman/petitioner Sri Godadhar Das and the Management of Numaligarh Refinery Limited, Assam. According to the Central Government, an Industrial Dispute exists between the Management of Numaligarh Refinery Limited and their workman in respect of the matters which have been specified in the Schedule as under:

SCHEDULE

“Whether the action of the management of M/s. NRL in not regularizing the services of Sri Goda Dhar Das in the post of Peon-cum-messenger under the management though he is discharging his functions effectively since 1995 on the plea of non-fulfilling the criteria of qualification contained in the Recruitment Rules even though his juniors were considered, is just, proper and justified. If not, what relief the workman Sri Goda Dhar Das is entitled for?”

2. On receipt of notices both the parties appeared and submitted their respective claim statement and written statement. The workman's case, in brief, is as follows:

3. In the Claim statement petitioner/workman Sri Goda Dhar Das stated that initially in the year 1989 he was appointed as Peon-cum-messenger in M/s. IBP Co. Ltd. which was an organization that undertook the responsibility of

commissioning Numaligarh Refinery. After commissioning of the Refinery he was engaged as Office Peon in the registered Office, NRL since 1995 and since then he has been discharging his duties to the satisfaction of all concerned. He also claimed that he used to sign the Attendance Register along with the other co-employees and with effect from 1.4.1998 the wages were increased by the concerned authorities. It is further stated that he was also paid overtime allowance by the N.R.L from 1993 to 2006. It was also stated that he was issued Identity Card by the Executive Director of NRL. But in spite of his repeated pleas his services were not regularized by the management. He also claimed that the job in which he was working at the time of initiation of the company was of perennial nature. It was further stated that some other workers who were junior to him were regularized but his claim of regularization was not entertained. Ultimately he raised an Industrial Dispute for regularization in the post of Peon-cum-Messenger. Conciliation proceeding was duly initiated. It was also claimed that he lost his job in NRL against the due process of law and he is entitled to be reinstated in the regular post of Peon-cum-Messenger under Numaligarh Refinery Ltd. The conciliation proceeding ended in failure and the Conciliation Officer submitted failure report of conciliation to the concerned Ministry and the appropriate Government sent the reference to this Tribunal for decision.

4. The management side submitted its written statement stating that the petitioner/workman was a contract labour engaged through contractor R.N.Taye and was not a regular employee of the Management Company. It was further stated that the management being Government Enterprises having its own recruitment policy and rules could not automatically regularize services of any one. It was also stated that the petitioner was claiming regularization on the basis of irrelevant documents. It was also stated that the petitioner could not have worked in NRL since 1995 because recruitment of permanent workmen in NRL started in the year 1997 and it was further stated that the workman/petitioner has failed to produce any appointment letter issued to him by NRL in 1995. The management stated that the petitioner was a contract labour and to facilitate his entry into certain area of the company, management might have given certificates to him. It was also stated that during the project period various persons were working either on casual basis or on daily rates as contract labour through contractors at Numaligarh Refinery Limited site as well as the office of the Guwahati Project co-coordinator. After completion of the project the persons whose services were not necessary were removed. However a few of the workers who were found to have requisite qualification were given permanent employment in the Company. The workman/petitioner also worked as daily wage earner during the project period but since he was not having the requisite minimum qualification of matriculation, he could not apply in any of such post in the NRL. It was specifically stated by the management that the petitioner was a contract labour engaged through Contractor Sri R.N.Taye and on the aforesaid ground the management prayed for dismissal of the claim of the petitioner.

5. On receipt of the copy of the W.S. submitted by the management, workman/petitioner submitted an additional claim statement wherein, more or less, the facts alleged in the claim statement have been reiterated. He restated his claim that he was engaged as casual Office Peon and worked in the NRL at Guwahati till 31st October, 2014. It is also stated that Sri R.N.Taye who was shown to be a contractor supplying labour to the NRL was actually casual employee of NRL. It was specifically stated that the petitioner was never a contract labour under the contractor. He restated his claim that he used to draw his salary by signing the register along with other employees.

6. The workman side examined two witnesses and the management side examined three. It may be mentioned here that some of the photo copies of the documents submitted by the workman were admitted into evidence being admitted by the management. It may be mentioned here that the management never categorically denied the existence of those documents when they were asked to submit the originals of those documents.

7. During argument learned Sr. Counsel appearing for the workman submitted that the workman started to work in NRL as an Office Assistant on casual basis from 13.11.1996 and several exhibits namely Exhibits-4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 were exhibited which categorically indicate that he was a casual worker directly under the NRL till his service was discontinued by the Management. He also referred to a part of the examination-in-chief of the workman wherein the workman stated that while he was serving as Office Peon in NRL, suddenly from the month of September, 1999 he was projected by the Management as a contract labour through execution of some mere papers works. The learned counsel for the workman further referred to several decisions of the Hon'ble Supreme Court to bolster his claim that the workman deserves to be regularized by the Management.

8. The learned counsel for the workman further referred to several decisions of the Hon'ble Supreme Court to bolster his claim that the workman deserves to be regularized by the Management. The learned counsel referred to a decision of **the Hon'ble Supreme Court in State of Karnataka & Ors –vs—M.L.Kesari & Ors reported in 2010 AIR(SC) 2587** wherein it was held that one time regularization and absorption of daily wage workers and contractual workers were to be done as one time step in view of the decision of the Hon'ble Supreme Court in "State of Karnataka – vs—Uma Devi reported in 2006 (4) SCC1". The learned Counsel also referred another judgment of **the Hon'ble Supreme Court in Steel Authority of India Ltd. –vs—National Union Waterfront Workers and Ors reported in (2001) 7 SCC 1** wherein it was held that where the Appropriate Government issued Notification under Section 10(1) of CLRA Act, automatic absorption was not possible though the situation would change if it was found that the contract itself was found to be sham and nominal one. To justify the principle of reasonableness in executive side, he referred to another decision of **Hon'ble Supreme Court In U.P. State Electricity Board—vs--- Pooran Chandra Pandey & Ors reported in (2007) 11 SCC 92**. Another judgment referred by the workman side was passed by **the Hon'ble Supreme Court in Secretary, State of Karnataka and Ors---vs---Umadevi (3) and Ors reported in (2006) 4 SCC 1**. Learned

senior counsel for the workman side particularly referred to para-53 of the aforesaid judgment wherein the Hon'ble Supreme Court gave a direction to "the Union of India, State Government and their instrumentalities to take steps to regularize as a one-time measure the services of such irregularly appointed employees who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the Courts or Tribunals."

9. The learned counsel appearing for the management side submitted that the workman was actually a contract labour engaged through contractor R.N. Taye and hence there was no question of legitimate expectation of regularization. He referred to a decision of **Hon'ble Supreme Court in Union of India and Anr. –vs–Arulmozhi Iniarasu & Ors. Reported in Civil Appeal Nos. 4990-4991 of 2011**, wherein it was held that "*a person who bases his claim on the doctrine of legitimate expectation, in the first instance, has to satisfy that he has relied on the said representation and the denial of that expectation has worked to his detriment. The Court could interfere only if the decision taken by the authority was found to be arbitrary.....*". Referring to the aforesaid decision learned counsel for the management submitted that even if the workman projected him as casual worker directly under the management, the question of legitimate expectation could come only when he had submitted such representation and had minimum requisite qualification for the concerned post. He further added that there was absolutely nothing to show that any such representation was ever submitted by the workman and that apart, according to his own admission, in the cross-examination, he did not pass matriculation. It was also submitted that minimum qualification for the post of messenger in NRL is class X pass. It was also pointed out that the petitioner admitted that he was not given any appointment letter by NRL at any point of time. The learned counsel for the management side also referred to another decision of Hon'ble Supreme Court in State of Manipur and Anr ---vs---Ksh. Moirangninthou Singh and Ors. (Civil Appeal No.1897-1901 of 2006). In this case in para-7 of the judgment the Hon'ble Supreme Court held as under :-

"We are of the opinion that in view of the Constitution Bench Judgment of this Court in Secretary, State of Karnataka and Ors. –vs–Uma Devi and Ors. (2006) 4 SCC 1, this Court cannot direct regularization in service. Since the Court has no power to direct regularization, it also follows that it has no power to direct grant of benefits payable to the regular employees." The learned Counsel for the management side during argument also submitted a copy of the Recruitment Rules for Employees other than Officers with a copy to the workmen side which was not objected by the workman. This Recruitment Rules indicate the details as to how the regular employees are recruited in the Numaligarh Refinery Limited. Learned Counsel appearing for the management further submitted that from the evidence it would be clear that the workman was not only a contract labour but was not having minimum educational qualification for the post of peon-cum-messenger. He further submitted that there is absolutely nothing on record to negate that the contract for supply of contractual labour was mere a paper arrangement and was done without the consent of the concerned petitioner.

10. In order to appreciate the submissions of the learned Counsels for both the parties I shall now consider the evidence adduced by the parties and arrive at a finding on the back drop of the facts of the case and the relevant law.

11. Workman Witness No. 1 petitioner Sri Godadhar Das stated that he was originally engaged as a Peon-cum-Messenger in M/s. I.B.P Co. Ltd. which was an organization that undertook the responsibility of commissioning Numaligarh Refinery in the year 1989. He further stated that in the year 1995 he was engaged as Peon-cum-Messenger of NRL as a casual worker. He exhibited certain documents as Exhibited 3 to Exhibit-25 to show that he was directly engaged as a casual worker under NRL. Exhibit-3 appears to be a copy of overtime bill submitted by him for claiming Overtime. Exhibit-7 was a copy of the document submitted by the workman to the management claiming expenses incurred for local conveyance. Exhibits-8, 9, 10 also were exhibited by the workman to show his engagement with NRL. Exhibits-11 to 17 appeared to be certificates issued by different officers to facilitate the entry of the petitioner into various offices of NRL.

12. During cross-examination workman witness No.1 stated that he does not remember if he received any written communication from the management. He also stated that he did not know whether minimum qualification sought for Office Peon-cum-Messenger for NRL is Class-X passed. He admitted that he had not passed matriculation. He denied the management suggestion that he was engaged in NRL through contractor namely Sri R.N.Taye. However, he admitted that he used to receive his wages from Sri R.N.Taye. He also denied the management suggestion that since he was under-qualified for which he was not given any appointment letter by the management.

13. Workman witness No.2, among other things, stated that projection of petitioner Gadadhar Das as a Contractual labour under Contractor R.N.Taye from the month of September,1999 is nothing but a paper arrangement to deprive the workman. During cross-examination he stated that from 1999 the NRL management pressurized them and compelled them to receive their wages from R.N.Taye. He further stated that when they were given wages from R.N.Taye, he protested and that is why he was terminated in the year 2000 and the workman admitted that he is not in NRL since 2001.

14. Management witness No.1, Sri Kaustabh Sharma deposed that the workman Godadhar Das was engaged in the management's Registered Office on contractual basis through the contractor Sri R.N.Taye and he was not a regular employee of the management. He further stated that during the project work various persons were engaged on contractual and daily wage basis and after completion of the project work they were removed and some of them who had the minimum requisite qualification were given permanent employment and the workman Godadhar Das having no requisite minimum qualification could not apply for any of such post. During casual work some official papers were issued to those contractual workers for free access to the project area. The witness further stated that the petitioner used to sign

in the attendance register for contractual workman and identity card was issued to him for security reason only. The witness further stated that since the workman Godadhar Das did not have minimum requisite qualification he could not claim for a regular job in NRL.

15. During cross-examination the witness stated that since the workman did not have minimum educational qualification he was not considered for regular employment.

16. The Management witness No.2 more or less stated the same thing as stated by MW.1 and he specifically stated since the petitioner Godadhar Das was not qualified he could not be regularized. During his cross examination MW. 2 stated that the petitioner Godadhar Das was engaged in the management establishment through a contractor.

17. Management witness No.3 also stated more or less the same fact as that of MW.1 & MW.2. During cross-examination MW.3 stated that a few of the workers who were engaged through Contractor were regularized in the NRL subject to having requisite qualification. He also stated that the regularization of the workman Godadhar Das was not considered since he was not having the minimum requisite qualification for which he even could not apply for any of the post under the management.

18. Admittedly, there was no notification by the Government u/s 10(1) of CLAR Act in respect of NRL. Hence, the management was not restricted to avail the services of the contract labourers depending on necessity. However, even in the existence of a contract for hiring labour, if the contract itself is found to be a mere paper work, the labours hired there-under may be considered to be casual employees directly under the principal employer. This is the admitted position of law as enunciated by the Hon'ble Supreme Court in several cases as indicated in some earlier paragraphs of this "Award". Having considered the evidence on record, it appeared that the petitioner was a contract labour under contractor from the year 1999 and there was no material on record to suggest that the contract was a mere paper arrangement. It also appeared that the management absorbed several persons as regular employees from among the casual labours and contract labours subject to their having minimum required educational qualification. The minimum qualification for the post of peon-messenger is class X pass but the concerned petitioner/workman is not a matriculate. Another aspect which deserves consideration is the claim of the petitioner that from 1999 he was shown as a contract labour through some paper works against his wishes. This claim of the petitioner, on the face of it, did not appear to be believable because in such a situation the petitioner definitely would not have waited for about 14/15 years for raising an industrial dispute. There was, admittedly, no appointment letter issued to the petitioner as a casual employee. There was also no such document to show that having continued in NRL he approached the NRL in writing for "regularization" of his service.

19. Another plea of the workman side was that the management from time to time entrusted him with official works and hence he is to be treated as a casual employee directly under the principal employer. But that plea cannot be held to sustain in view of the decision of the Hon'ble Supreme Court in "Steel Authority of India" (supra) wherein it was held that mere engagement of contract labour in connection with work entrusted to workman by the principal employer "does not culminate in emergence of master servant relationship between the principal employer and the contract labour". That apart, the petitioner/workman did not have the requisite educational qualification for the job of a peon-messenger in NRL.

20. In view of the above, it is held that Sri Godadhar Das was not a casual employee directly engaged by the principal employer. Moreover, he also did not have requisite educational qualification for the post of peon-messenger in NRL. Accordingly, it is held that the action of the management of M/s. NRL as mentioned on the Schedule of the present reference was not unjustified. Sri Godadhar Das, therefore, is not entitled to any relief. The reference is answered accordingly.

Send the Award to the Ministry as per procedure.

Given under the hand and seal of this Tribunal on this 31st day of January, 2018 at Guwahati.

MRINMOY KUMAR BHATTACHARJEE, Presiding Officer

नई दिल्ली, 15 फरवरी, 2018

का.आ. 350.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मैसर्स सेल रिफ्रैक्ट्री यूनिट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय-1, धनबाद के पंचाट (संदर्भ सं. 27/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.02.2018 को प्राप्त हुआ था।

[सं. एल-26011/15/2015-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 15th February, 2018

S.O. 350.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 27/2015) of the Central Government Industrial Tribunal-cum-Labour Court-1, Dhanbad now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. SAIL Refractory Unit and their workman, which was received by the Central Government on 12.02.2018.

[No. L-26011/15/IR (M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1)(d) (2A) of I.D.Act, 1947

Reference No. 27/2015

Employers in relation to the management of SAIL Refractories Ltd. Bhandaridah Unit
And
Their workmen

Present : Shri R.K. Saran, Presiding Officer

Appearance:

For the Employers : Shri S.K.Sharma, Advocate

For the workman : Shri D.K.Verma, Advocate

Industry : Steel

Dated :16.01.2018

AWARD

By order No. L-26011/15/2015/IR (M) dated 19. 06.2015, the Central Government in the Ministry of Labour has in exercise of the power conferred by clause (d) of sub – section (1) and sub – section (2A) of section 10 of the Industrial Disputes Act , 1947 referred the following dispute for adjudication to this Tribunal :

SCHEDULE

“Whether the action of the management of SAIL Refractory Unit, Bhandaridah in not regularizing the service of Sri Punit Mahato and 44 other Badli workers (list enclosed) who were doing the permanent and Perennial nature of job since long is fair and justified? If not, to what relief the concerned workmen are entitled?”

ANNEXURE

List of workers

Sl. No.	Name	Father's name	Permanat Address	Present Address	Work Side	Designation
1	Punit Mahato	Late hiraman Mahato	Vill- Mungo Post-Gunjardih Thana- Navadih, Dist- Bokaro	Vill- Mungo Post-Gunjardih Thana- Navadih, Dist- Bokaro	Cell Refactory Unit Bhandaridah	Badlee Majdoor
2	Kesho Mahto	Late Vigan Mahato	-do-	-do-	-do-	Badlee Majdoor
3	Jagdeesh Mahto	Late Shukar Mahto	-do-	-do-	-do-	Badlee Majdoor
4	Mohan Mahato	Late Chaman Mahato	Vill- Laharavera, Post- Birnee, Thana- Navadeeh, Dist- Bokaro	Vill- Laharavera, Post- Birnee, Thana- Navadeeh, Dist- Bokaro	-do-	Badlee Majdoor
5	Bawari Mahato	Late Khadhan Mahto	-do-	-do-	-do-	Badlee Majdoor
6	Tahal Mahato	Late Jagranath Mahto	-do-	-do-	-do-	Badlee Majdoor
7	Ruplal Mahto	Late Matuk Mahto	-do-	-do-	-do-	Badlee

						Majdoor
8	Neelkanth Mallah	Late Budhan Mallah	Vill- Taantree, Post- Tantree, Thana- Baleedeeh, Dist- Bokaro	Vill- Taantree, Post- Tantree, Thana- Baleedeeh, Dist- Bokaro	Cell Refactory 10Unit Bhandareedah	Badlee Majdoor
9	Budhu Mallah	Late Ganpat Mallah	-do-	-do-	-do-	Badlee Majdoor
10	Maneer Kalal	Late Biltu Kalal	Vill- Mungo Post-Gunjardih Thana- Navadih, Dist- Bokaro	Vill- Mungo Post-Gunjardih Thana- Navadih, Dist- Bokaro	-do-	Badlee Majdoor
11	Yaakub Khaan	Late Babu Khan	Vill- Alaargo Post- Bhandareedah, Thana- Navadeeh, Dist- Bokaro	Vill- SRU Colony ,Post- Bhandareedah, Thana- Navadeeh, Dist- Bokaro	-do-	Badlee Majdoor
12	Meghlal Mahto	Late Rohan Mahto	Vill- kimjoriya, Post- Chirudeeh, Thana- Navadeeh, Dist- Bokaro,	Vill- kimjoriya, Post- Chirudeeh, , Thana- Navadeeh, Dist- Bokaro,	-do-	Badlee Majdoor
13	Kesar Saw	Late Janki Saw	Vill- Shardarodee, Post- Chandvara, Thana- Chandvara, Dist- Kodarma	Vill- SRU Colony ,Post- Bhandareedah, Thana- Navadeeh, Dist- Bokaro	-do-	Badlee Majdoor
14	Bhikhari Mahto	Late Durga mahto	Vill- Tarmee Uparbandha, Post- Bandareedah, Thana- Chandrapura, Dist- Bokaro	Vill- Tarmee Uparbandha, Post- Bandareedah, Thana- Chandrapura, Dist- Bokaro	Cell Refactory Unit Bhandareedah	Badlee Majdoor
15	Deg lal Singh	Late Hublal Singh	Vill Alargo, Post- Bhandareedah Thana- Navadeeh, Dist- Bokaro	Vill Alargo, Post- Bhandareedah Thana- Navadeeh, Dist- Bokaro	-do-	-do-
16	Bheem Mahto	Late Bagat Mahto	-do-	-do-	-do-	-do-
17	Uma Shankar Pandey	Late Ayodhya Pd. Pandey	-do-	Vill Alargo, Post- Bhandareedah Thana- Navadeeh, Dist- Bokaro	-do-	-do-
18	Gobind Singh	Late Shiv Dayal Singh	Vill- Budha Behra, Post- Lota, Than- Sili, Dist- Ranchi	Vill- Phulwaree Poit- Bhandareedah, Thana- Chandpura, Dist- Bokaro	-do-	-do-
19	Ramdas Manjhee	Late Durga Manjhi	Vill- Chirudeeh , Post- +P.S Bhandareedah, - Chandrapura , Dist- Bokaro	Vill- Chirudeeh, Post- + P.S Bhandareedah, Chandrapura , Dist- Bokaro,	-do-	-do-
20	Rameshwar Mahto	Late Janki Mahto	Vill Alargo, Post- Bhandareedah Thana- Navadeeh, Dist- Bokaro	Vill Alargo, Post- Bhandareedah Thana- Navadeeh, Dist- Bokaro	-do-	Badlee Majdoor
21	Rabi Singh	Late Jaggu Singh	Vill- Turiyo, Post- Bhandareedah, Thana-	Vill- Turiyo, Post- Bhandareedah, Thana-	-do-	Badlee Majdoor

			Chandrapura	Chandrapura		
22	Abbas Ansaree	Late Babujan Miya	Vill Alargo, Post-Bhandareedah Thana- Navadeeh, Dist- Bokaro	Vill Alargo ,Post-Bhandareedah Thana- Navadeeh, Dist- Bokaro	-do-	Badlee Majdoor
23	Jeevan singh	Late Hemlal Singh	Vill- Tarmee Phulwari, Post-Bhandaridah, Thana- Chandrapura, Dist- Bokaro	Vill- Tarmee Phulwari, Post-Bhandaridah, Thana- Chandrapura, Dist- Bokaro	-do-	Badlee Majdoor
24	Lal Mohan Singh	Late Hemlal Singh	Vill- Tarmee Phulwari, Post-Bhandaridah, Thana- Chandrapura, Dist- Bokaro	Vill- Tarmee Phulwari, Post-Bhandaridah, Thana- Chandrapura, Dist- Bokaro	-do-	Badlee Majdoor
25	Dayal Singh	Late Horil Singh	-do-	-do-	-do-	Badlee Majdoor
26	Mansa Singh	Late Sitaram Singh	-do-	-do-	-do-	Badlee Majdoor
27	Snichar Manjhi	Late Shikhar Manjhi	Vill- Chirudeeh Lu, Post Bhandareedah, Chandrapura , Thana Bhandareedah Thhana Dist- Bokaro,	Vill- Chirudeeh Lu, P.o+P.S Bhandareedah, - Chandrapura, Thana Bhandareedah Thana Dist- Bokaro,	-do-	Badlee Majdoor
28	Late Bhola manjhi	Late hopna Manjhi	-do-	-do-	-do-	Badlee Majdoor
29	Sukhdev Manjhi	Late Sannu Manjhi	Vill –AsanaTand, Post- Birni, Thana- Navadih, Dist- Bokaro	Vill – AsanaTand, Post- Birni, Thana- Navadih, Dist- Bokaro	-do-	Badlee Majdoor
30	Late Jitan Singh	Late Sonaram Singh	Vill- Tarmee Phulwari, Post-Bhandaridah, Thana- Chandrapura, Dist- Bokaro	Vill- Tarmee Phulwari, Post-Bhandaridah, Thana- Chandrapura, Dist- Bokaro	-do-	Badlee Majdoor
31	Santosh kumar Singh	Late Vijay Singh	Vill Alargo, Post-Bhandareedah Thana- Navadeeh, Dist- Bokaro	Vill Alargo ,Post-Bhandareedah Thana- Navadeeh, Dist- Bokaro	-do-	Badlee Majdoor
32	Sevak Saw	Late Mansa Saw	-do-	-do-	-do-	Badlee Majdoor
33	Narayan Saw	Late Mansa saw	-do-	-do-	-do-	Badlee Majdoor
34	Babu Lal Manjhi	Late Ganesh Manjhi	Vill- Aahardih, post- Surhee , Thana- Navadeeh, Dist- Bokaro	Vill- Aahardih, post- Surhee , Thana- Navadeeh, Dist- Bokaro	-do-	Badlee Majdoor
35	Manoj Kumar Singh	Late Raghu Singh	Vill- Tarmee Phulwari, Post-Bhandaridah, Thana- Chandrapura, Dist- Bokaro	Vill- Tarmee Phulwari, Post-Bhandaridah, Thana- Chandrapura, Dist- Bokaro	-do-	Badlee Majdoor

36	Indra Singh	Late Sitaram Singh	Vill- Tarmee Phulwari, Post-Bhandaridah, Thana-Chandrapura, Dist- Bokaro	Vill- Tarmee Phulwari, Post-Bhandaridah, Thana-Chandrapura, Dist- Bokaro	-do-	Badlee Majdoor
37	Sanichar Singh, No-1	Late Babulal Singh	-do-	-do-	-do-	Badlee Majdoor
38	Kailash Giri	Late- Mangal Giri	-do-	-do-	-do-	Badlee Majdoor
39	Ramtirath Singh	Late Ram dev Singh	Vill- Gorkati , Post- Adaee, Thana- Koch, Dist- Gya(Bihar)	Vill- SRU Colony, Post- Bhandareedah, Thana- Navadeeh, Dist- Bokaro	-do-	Badlee Majdoor
40	Tulsi Singh	Late Deglal Singh	Vill- Tarmee Phulwari, Post-Bhandaridah, Thana-Chandrapura, Dist- Bokaro	-do-	-do-	Badlee Majdoor
41	Lal Singh	Late- Juran Singh	Vill- Turiyo, Post-Bhandareedah, Thana-Chandrapura	Vill- Turiyo, Post-Bhandareedah, Thana-Chandrapura	-do-	Badlee Majdoor
42	Abul Kalam	Late Slim Ansari	Vill- Mango, Post- Tupkandeeh, Thana- Balilah, Dist- Bokaro	Vill- Mango, Post- Tupkandeeh, Thana- Balilah, Dist- Bokaro	-do-	Badlee Majdoor
43	Raj Kumar Manjhi	Late Jeewan Manjhi	Vill- Chirudeeh Lu, Post- bhandareedah, Thana- Bandareedah, Thana- Chandrapura, Dist- bokar,	Vill- Chirudeeh Lu, Post- Bhandareedah, Thana- Bandareedah, Thana- Chandrapura, Dist- bokaro,	-do-	Badlee Majdoor
44	Dilip Singh	Late Sanichar Singh	Vill- Dahuua, post- Pichhree, Thana- Petarwar- Dist- Bokaro,	Vill- Dahuua, Post- Pichree, Thana- Petarwar , Dist- Bokaro,	-do-	Badlee Majdoor
45	Phagu Ray	Late Shiv Bachan Ram	Vill- Devriya, Post- Tarya, Dist- Chapraa, (Bihar)	Vill- SRU Colony, Post Bhandareedah, Thana- Navadeeh, Dist- Bokaro	-do-	Badlee Majdoor
46	Urmila Devi	Late Nandlal Manjhi	Vill- Budha Behra, post- Lota, Than- Silli , Dist- Ranchi	Vill- Heth Vera, Post- Bhandareedah, Thana- Bokaro, Dist- bokaro	-do-	Badlee Majdoor
47	Tulu Manjhi	Late Ratan manjhi	Vill- Chirudeeh Lu, Post- bhandareedah, Thana- Bandareedah, Thana- Chandrapura, Dist- bokaro,	Vill- Chirudeeh Lu, Post- Bhandareedah, Thana- Bandareedah, Thana- Chandrapura , Dist- bokaro,	-do-	Badlee Majdoor

2. The case is received from Ministry of Labour on 06.07.2015. After receipt of the reference, both parties are noticed. The workmen files their written statement on 21.07.2015, and the management also files their written statement on 10.11.2015. Thereafter rejoinder and document filed by the parties. One witness examined on behalf of the management and two witnesses examined on behalf of the workmen. Documents of the workman marked as W-1 to W-6 and no document marked as Exhibit on behalf of the management.
3. The case of the workmen is that Punit Mahato and other workmen were working in material handling section of Bharat Refectories Limited, Bhandaridah since long under direct supervision and control of the management in permanent and perennial nature of job. The management just to deprive them from their legitimate rights paying them less wages than the regular employee through intermediaries.
4. It is further submitted by the workmen that the engagement of the workmen through contractor in raw material handling section was abolished w.e.f 31.03.1989 and thereafter a settlement was arrived between the management of Bharat Refectories Limited , Bhandaridah and their workmen on 01.04.1989 whereby and where under the management agreed to provide employment to Shri Punit Mahato and others as Badali workmen and also agreed to pay them wages at par with permanent employee of R-1 Category.
5. It is further submitted by the workmen that the settlement was implemented by the management and accordingly appointed Punit Mahato and others as Badali workmen w.e.f.07.04.1989, 13.04.1989, to 17.04.1989, in different dates and started paying them wages of R-1 categories.
6. The workmen also submitted that some workmen died in harness thereafter the management provided employment to their dependant according to the provision of employment of dependant w.e.f 01.10.1993 onward and since then they are also working in mudgunmass section and completed more than 240 days attendance. On 10.12.1996 the management again entered into settlement with the union and agreed to regularize the workmen concerned as permanent employee phase wise. But utter violation of the settlement the management has not regularized them as permanent employee. One similar agreement was also arrived on 24.04.1997. The management implemented the settlement and allowed all facilities to the workmen concerned. In the said agreement it was also agreed by the management of BRL that the permanent status will be granted to the workmen after the decision from the competent court of Law.
7. The management of Bharat Refectories Limited, Bhandaridah merged in Steel Authority of India Limited on 01.04.2007 and since the amalgamation all workmen of BRL become the employee of SAIL, Refectories Unit, Bhandaridah. Thereafter according to NJCS agreement all the employees of SRU are entitled for wages according to NJCS agreement w.e.f date of merger.
8. The management of SAIL, Refectories Unit Bhandaridah implemented the wage stricture of NJCS agreement at Bhandaridah Unit and started paying wages to its all employee according to NJCS agreement w.e.f 01.04.2007 except the workmen concerned . The concerned workmen are also entitled for wages of S-1 Category, whereas the management illegally continued the payment of wages of R-1 Category of previous employer. But the management paying less wages to the workmen concerned than actually they are entitled.
9. In Similar nature of dispute between the workmen of M/S Bharat Refectories Limited IFICO refectories , Plant Marar Hazaribagh which have now also amalgamated in SAIL, the presiding Officer, Industrial Tribunal, Ranchi in Ref. 2 of 2005 passed in his award in favour of workmen of said reference and issued direction for their regularization. The management has not regularized the services of workmen in spite of the award passed in Ref 2 of 2005. The union waited and after representation the management but without effect hence the dispute arose.
10. On the other hand the case of the management is that the management admitted that the management is paying wages to the Badali workmen as per settlement in R-1 Category but the management denied that the management never provided the employment to the dependent of the badly workers after his death.
11. It is further submitted by the management that it is clear that the management has been providing all facilities and allowances to the Badli workers as per agreement dated 24.04.1997.
12. It is further submitted by the management that the NJCS agreement cover only permanent employee of SAIL and accordingly the same is applicable to only permanent employee of SAIL, SRU Bhandaridah and not this Badali workers. Hence they are not entitled of wages under S-1 of SAIL category as the Badali workers are not employees of SAIL so they are not covered under NJCS agreement hence they have been denied aforesaid wages of SAIL.
13. The workmen concerned claimed for regularization under the management . The workmen concerned were engaged in Bharat refractories Ltd as Badli workers, said unit taken over by SAIL management. All the workmen are rendering services to SAIL but in low salary. On perusal of all document it noticed one RTI reply by Prakash toppo Manager, in which it is admitted that seven Badali workers dependent provided employment on compassionate ground.
14. Sri SriKant Pandey Asstt. General Manager (P &A) of SAIL appeared as witness of the management (MW-1) stated as follow:-

“The Present management is a part of SAIL . In our unit wages of SAIL applicable to regular employees. We are not paying SAIL wages to the workmen concerned. The workmen concerned are working in our organization since 1989 continuously.”

15. From the statement it appears that the workmen are rendering service to the said management continuously in lower wage. The representative of the sail submitted that there is a bipartite agreement between the SAIL management and the workmen concerned. The settlement is filed before this court and there is a clause in that settlement that the Badli workmen can be regularized as per the order of the court. Now the workmen approached the Court and they are rendering services like SAIL employees .

16. As per order of Supreme court (L&S) 451 Sudarshan Rajpoot vs Utter Pradesh State Road Transport Corporation in Civil Appeal Nos 10355-54 of 2014 decided on 18 Nov. 2014 some portion is quoted below :-

“Industrial Dispute Act, 1947 S-2 (ra) r/w Ss25 T, S, 25 U and sch-V Item 10 -Prohibition from engaging workman as badlis, casual or temporary to work on permanent basis – service of appellant workmen who was continuously working for more than 3 years and had rendered more than 240 days of service in calendar year terminated without notice- Held extracting work of permanent nature continuously for more than three years on contract basis is statutorily prohibited and hence impermissible – same amount to unfair Labour practice and is punishable.”

17. As per fifth Schedule of I.D Act, 1947, it is pertinent to mention here that “To employ workmen as badlis, casual, temporaries and to continue them as such for years with the object of depriving them of the status and privileges of permanent workmen”.

18. As per admition of the MW-1, the concerned workmen are working 1989 continuously , it means the concerned workmen rendering 240 days continuously in all calendar year. The Supreme Court says in above case which workmen works 3 years continuously are required to be regularised as a regular workman.

19. Considering the facts and circumstances of this case, I hold that the action of the management of SAIL Refractory Unit, Bhandaridah in not regularizing the service of Sri Punit Mahato and 44 other Badli workers (list enclosed) who were doing the permanent and Perennial nature of job since long is not fair and justified Hence they be regularized in service within 30 days from the date of publication of the award in Gazette of India.

This is my award.

R. K.SARAN, Presiding Officer

नई दिल्ली, 15 फरवरी, 2018

का.आ. 351.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसारण में केन्द्रीय सरकार, मेसर्स बोकारो इस्पात संयंत्र, सेल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय-1, धनबाद के पंचाट (संदर्भ सं. 32/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.02.2018 को प्राप्त हुआ था।

[सं. एल-26012/20/2015-आईआर (एम)]

डॉ. के हिमांशु, अवर सचिव

New Delhi, the 15th February, 2018

S.O. 351.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 32/2015) of the Central Government Industrial Tribunal-cum-Labour Court-1, Dhanbad now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. Bokaro Steel Plant, SAIL and their workman, which was received by the Central Government on 12.02.2018.

[No. L-26012/20/2015-IR (M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1)(d) (2A) of I.D. Act, 1947

Reference No. 32/2015

Employers in relation to the management of Bokaro Steel Plant, M/s. SAIL

And

Their workman

Present : Shri R. K. Saran, Presiding Officer

Appearance:

For the Employers : Shri D.Mukherjee, Advocate

For the workman : Shri U.P.Sinha, Advocate

Industry : Steel

Dated : 17/01/ 2018

AWARD

By order No. L-26012 /20/2015/IR (M) dated 15/07/2015, the Central Government in the Ministry of Labour has in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal :

SCHEDULE

“Whether the action of the management of Bokaro Steel Plant, SAIL is retiring Sri Ram Prasad Nayak prematurely w.e.f 30.11.2013 instead of 30.11.2019 is fair and justified? If not, to what relief the concerned workman is entitled?”

2. The case is received from Ministry of Labour on 06.08.2015. The workman files written statement on 09.09.2015 and the management files their written statement on 02.03.2016. Thereafter rejoinder and document filed by the parties. One witness each examined on their behalf. Document of management is marked as M-1 to M-6 and the document of workman is marked as Ext. W-1& W-2.

3. The case of the workman is that he joined in the company SAIL/BSL on 15.11.1977 on the post of Khalasi/Mazdoor grade iV category in the time scale of Rs. 300-6-348/- bearing Staff No. 382185 on displaced quota, at the time of joining of service the workman was supplied some form concerning to his employment asked to fill the same but the workman concerned was illiterate, so he got the forms filed with one of the persons who was present in the office of BSL in personnel Department.

4. It is further submitted by the workman that his age mentioned in the form known as personal Data form and Attestation form, the workman fully remembered that he had got it written 18 years on the date of birth column which comes 19.09.1959. The person who had filled in the form for the workman had written the age 18 years in word in his hand writing and therefore the workman was firm that he shall be retiring on 19.09.2019 as he would have been attaining his age of 60 years on this day but the workman was surprised in the year 2008 as he was given notice by the management informing that he shall be retiring on 30.11. 2013 could know that his age and date of birth as recorded at the time of his joining , has been cut and changed and in that place it was written as 15.11.1953 and 24 years in the PD form which is remained exclusively under the custody of the official of the management. Soon after getting knowledge of change of his age, the workman being worried about made several representations but the authority did not pay any attention to his representation and prayer hence industrial dispute arose.

5. On the other hand the case of the management is that sri Ram Prasad Nayak was appointed and joined duty on 15.11.1977 as Khalasi Mazdoor. At the time of appointment the concerned workman declared his age as 24 years on 15.11.1977 and all documents, his date of birth is written as 15.11.1953 which is being duty authenticated by the concerned workman by putting his signature but during the tenure of his service he never raised any objection regarding the document in which his date of birth are recorded but at the fag end of retirement, he represented before the management for correction of his date of birth without any statutory document . His representation was rejected by passing speaking order.

6. It is further submitted by the management that the concerned workman at the time of retirement, he filed application claiming provident fund, Gratuity and self employment's superannuation benefits fund in which he has mentioned his date of superannuation as 30.11.2013.

7. Short point to be decided in this reference is whether retiring the workman prematurely w.e.f. 30.11.2013 in stead of 30.11.2019 is justified. After receipt of the reference, parties filed written statement, counter. So also documents. Oral evidence adduced by the parties . Personnel deptt. data form filed by the management but the same has been tampered. It is an initial documents, photocopy marked as Ex-M-5 series. In the Date of birth column, it is written 19.09.1959 which has been scored through, in the letter it is written eighteen years in the

month of 1977 and that has not been scored though. But below that it is written 24 years as on 15.11.1977 declared by Ram Prasad.

8. On perusal of all document below the age found the signature which was taken in Hindi. Workman is not English knowing man scoring is apparent. Other place of the writings have been scored . Ext M-4 is the medical examination form, which came into existence on 15.11.1977. The workman's age written there in that he was 18 at that point of time. Management submitted that the claim is raised after retirement. For an illiterate workman usually there is no scope. They are to depend on union .

9. The witness examined by the management supports the management case, says on quarry by the Tribunal that he was not posted, at that time in the personnal Department Form or created of Ext W—1. He also says he can not say who scored the service sheet. Service sheet is with management. It can not be said that, it was done.

10. Attestation form and personal Data form is oldest document existence on 15.11.1977 which is tampered and In the Date of Birth column, it is written 19.09.1959 which has been scored by some one. All document is kept in management custody, workman is none English knowing man he could not able to do anything. It is extreme lapses of management hence the workman is not liable for tempering the document accordingly the workman must not suffer. Therefore premature retirement of workman is wrong. He be taken in to job and be retired taking as date of birth sep. 1959

11. Considering the fact and circumstances of this case, I hold that the action of the management of Bokaro Steel Plant, SAIL in retiring Sri Ram Prasad Nayak prematurely w.e.f 30.11.2013 instead of 30.11.2019 is not fair and justified Hence he be taken into job at once and he be given 50% of back wages with continuity of service.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 15 फरवरी, 2018

का.आ. 352.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मेसर्स यूरेनियम कारपोरेशन ऑफ इंडिया लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय-1 धनबाद, के पंचाट (संदर्भ सं. 26/2014 एवं 2/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.02.2018 को प्राप्त हुआ था।

[सं. एल-43011/07/2013-आईआर (एम)]

डी. के हिमांशु, अवर सचिव

New Delhi, the 15th February, 2018

S.O. 352.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 26/2014 and 2/2016) of the Central Government Industrial Tribunal-cum-Labour Court-1 Dhanbad now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. Uranium Corporation of India Limited and their workman, which was received by the Central Government on 12.02.2018.

[No. L-43011/07/2013-IR (M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1)(d) (2A) of I.D.Act, 1947

Reference No. 26/2014

Employers in relation to the management of M/s. Uranium Corp. of India Ltd.

And

Their workman (Shila Rani)

I.D case No. 2/2016

Smt. Sheela Rani Ex- Staff Nurse, UCIL, Jadugoda.....Complainant

Vs

Management of UCIL, Jadugoda Mines.....Opp. Party

Present : Shri R.K.Saran, Presiding Officer

Appearance:

For the Employers : Shri P.R. Rakshit, Advocate

For the workman : Shri S.N.Goswami, Advocate

Industry :Uranium

Dated :12/01/2018

AWARD

By order No. L- 43011 /7/2013/IR (M) dated 20/02/2014, the Central Government in the Ministry of Labour has in exercise of the power conferred by clause (d) of sub – section (1) and sub – section (2A) of section 10 of the Industrial Disputes Act , 1947 referred the following dispute for adjudication to this Tribunal :

SCHEDULE

“Whether the action of the Management of UCIL, for not regularizing the services of Smt. Shila Rani as Staff Nurse is justified? Then what relief the concerned workman is entitled to?”

2. The case is received from Ministry of Labour on 13.03.2014. After receipt of the reference both parties are noticed. The workman files their written statement on 03.04.2014 but management is not present inspite of regd. Notice sent. Hence case is finalized as Ex-parte and award Passed dated 11.09.2014. Prior to that document of workman is marked as Ext. W-1to W-11 and document of management is marked as Ext. M-1 to M-14.

3. The case of the workman is that, Smt. Shila Rani concerned lady was initially appointed as Staff Nurse for UCIL, Medical Centre and posted at Narwapahar Hospital as Employee No. 15770 and she reported her duty to Dy. CMO at Hospital, Rural Medical Centre, Narwapahar of M/s. UCIL, Jadugoda mines has been performing duty as Staff Nurse. She is senior Staff Nurse Grade “A” .

4. He has been performing her duty as Senior Staff Nurse against sanctioned and vacant post and her tenure of service have been reviewed with extensions years together w.e.f 29.07.2007 to 03.12.2012 continuously, and the management have been pleased to provide her Quarter accommodation allotted to her bearing No. KF 1 Flat No 100 GP Slope Kadma Jamshedpur providing all necessaries facilities in accordance with the company’s rules and medical facilities like other permanent employees of M/s. UCIL. Jadugoda .

5. The management further pleased to revise their monthly consolidated emoluments of three employees working on contract basis w.e.f 01.06.2010 and their monthly wages have been revised consolidated emoluments of Rs. 13000/-in the place of Rs. 8000/- vide order No. UCIL/284/Gen dated 04.06.2010 and since then they have been made payment of Rs. 13000/-

6. It is further submitted by the workman that during the long tenure of continuous performance of services of company as staff Nurse in permanent and perennial in nature against sanctioned and permanent vacancy at RMC Hospital, Narwapahar of M/S UCIL and put more than 300 days attendance in one calendar year preceding 6 years up to 24.12.2013.

7. It is also submitted by the workman that, she has been working as Staff Nurse at R.M.C Hospital, Narwapahar of UCIL continuously and has compliance the provision of 25 B of the I.D Act, 1947 and putting more than 240 days attendance in each year and during the long tenure of service under direct control and supervision of CMO / Dy. CMO, of Narwapahar hospital as well as other concerned Authority of the management of M/S UCIL and has established the relationship between the Employer and Employee.

8. It is further submitted by the workman that the management have made permanent to all staff Nurses in their services of the company except the concerned Staff Nurse Smt. Shila Rani. She has been deprived in sheer violation the principles of natural justice. Smt. Shila Rani Sr. Staff Nurse Grade “A” represented the matter to the management but the management have given merely assurance for suitable consideration to absorb on permanent Roll of the Company but unfortunately failed to do so. Hence the concerned workman approached the management and submitted representation for consideration and absorption. She was working as staff Nurse Gr.A since 2007 therefore, she is legally entitled of absorption in the service of permanent staff nurse. The management had given assurance only for taking back into employment. But the management failed to do so. Hence Industrial Dispute arose, she filed an application before the ALC chaibasa but after long discussion no settlement arrived, thereafter the then, ALC Issued a certificate to file an I.D case U/S 2A of I.D Act before the Tribunal but during pendency of case before the ALC, the management terminated her service.

9. On the other hand the case of management is that this reference for regularization of Smt. Shila Rani in service is misconceived and it is beyond the scope and jurisdiction of Adjudicating Authorities to give entry in public enterprises

through back door entry policy without giving equal opportunity to all the eligible candidates under Article 16 of the constitution of India.

10. It is further submitted by the management that the factual matrix of the case leads the management to submits that a few vacancy caused for the post of medical Officer/ Staff Nurse/ laboratory technician /Pharmacist . An advertisement was published through the News Paper viz Prabhat Khabar dated 4/11/2007 calling upon candidates for walk in interview fixing the date on 14/11/2007 .

11. The Applicant was not found suitable in the category of staff Nurse while giving employment. However Smt. Shila Rani could not get selected inter –alia on her over age as the age so fixed for the post of staff Nurse was not more than 35 years where as smt. Shila Rani was aged more than 43 years at that point of time and her date of birth was so mentioned in her educational certificate as on 03/01/1964.

12. It is further submitted by the management that in the mean while the management started “Rural medicine centre” within UCIL Hospital at Narwapahar colony as part of in social out reach programme. The hospital was started with doctor and paramedical on contract basis for various reason including the fact that substantial pertain of the peoples are residing around Narwapahar are covered by UCILs standard medical benefits.

13. It is also submitted by the management that as per approval of R & R policy of the company, all unskilled/semi skilled vacancies in the company are filled up through land displaced persons residing around Narwapahar mines. The attendance of patients of RMC is low and its long term viability is not certain. In view of this it was considered prudent to continue the arrangement with purely contractual staff. The management has clear intention in matter of allowing contractual employment of Smt. Shila Rani even on relaxing her age in view of her practical experience in the field on contractual basis.

14. The engagement of smt. Shila Rani came to an automatic end on the expiry of the last contractual period and for non renewal of contract for further period of contract.

15. Short point to be decided in this case, whether the workman, who is a staff nurse appointed time to time by UCIL is entitled for regularization or not?

16. On perusal of the record that the workman filed a petition before the ALC Chaibasa for regularization but during conciliation she was terminated from service, thereafter she is again filed I.D Case U/S 2A of I.D Act. and both cases heard analogously hence award of both case is given in a common award.

17. Admitted facts in the case is that the workman after selection as staff nurse appointed for specific period. Thereafter according to the need of the management , she was taken to job or continued and after the 6th term, she was asked not to work , i.e denied employment.

18. The case of the management is that the appointment of the workman was purely contractual and she was taken to job as per requirement for a project and when the project is over, she was removed.

19. It is admitted fact by the management that her practical experience is vast in the field , hence the management engaged her on contractual basis and use her service for 6 years and after use her service the management throw out side the street on old age. This shows that the management adopted the policy of use and throw.

20. Question of compliance of U/S 25 F of I.D Act is not required because that was the condition of service. On the other hand the workman submits, she was given employment continuously for 6 years and thereafter she was asked to sit from service.

21. Firstly the case was decided Ex-parte, because the management did not appears inspite of service of due notice, It was set aside on the application of management on the condition that, management will give workman job till finalization of reference case on merit. But the management only gave her 3 months job and rest period she was jobless, i.e the condition of ex-parte order was not complied when it was enquired, whether PF of workman deducted, the Ld. Counsel of the management said he can not speak for 6 years but PF was deducted for 3 months only from salary. She again joined after set aside of Ex-parte award. Thereafter she was again removed from service.

22. In this case both parties examined witness and marked number of documents, perused, all documents and relevant and admitted documents but the point of law is whether the workman will be regularized or not?

23. **Coming to the legal question:-** So far as position in law is concerned, it is well settled that a workman who completed more than 240 days of service in a calendar year is entitled to reinstatement , if his services are brought to an end without complying with section 25F of ID Act.

The Ld counsel for management cited a decision quoted below:-

Girja Kishore and others Vs State of UP through D.M Gorakhpur and others in 2013-IV-LLJ-691(All.):- Employment and Labour Law- Regularisation of service –Petitioners appointed against substantive vacancy, on ad hoc basis with clear stipulation of temporary appointment- Appointment extended from time -to- time-Apprehending discontinuance, writ petition filed to command respondent to allow petitioners to regularize service

- Interim order passed pursuant to which petitioner continued to work-Whether petitioners are liable to be regularized based on legitimate expectation of getting regularized and for continuance in service for many years- Held theory of legitimate expectation can not be advanced on temporary, contractual or casual employees, if engagement not on proper selection-No regularization irrespective of length of time one continued to work. If not appointed after following procedure- services rendered pursuant to interim order will not give any benefit to petitioner - If appointment not made strictly in accordance with law, long continuance will not confer any right upon incumbent to hold post – wrong committed by respondent in respect to other persons will not provide cause of action to claim parity on ground of equal treatment- No regularization or service- writ petition dismissed.

23. On the Other hand the decision cited by workman is reported in 1996 LAB I.C 1161 Madhya Pradesh Bank karmchari Sangh Vs Syndicate Bank and another in MP No. 135 of 1988 Dt. 03.07.1995. The relevant portion is quoted below :-

(B) Industrial Disputes Act (14 of 1947) , Ss 2(oo)(bb) 25F- retrenchment –contractual employees- casual labour employed in bank on daily wager- completing 240 days of service-service tenure of employee not specified to be for limited period- His case would not fall in exception contained in S.2(oo)(bb)-Termination amounts to retrenchment-Section 25F not followed- Employee entitled to reinstatement- Fact that appointment was against casual vacancy or bank has appointed another person, not relevant.

(C) Industrial Disputes Act (14 of 1947), Ss 25F 2(oo) (bb)- retrenchment-workman initially appointed for fixed terms- service tenure of workman extended thereafter from time to time –Service not extended after time stipulated in last appointment order has expired- Nothing to show that work has ended, in fact other person appointed to do the work-Non extension of service of workman is malafide- Termination by non extension is retrenchment- section 2(oo) (bb) does not apply- Section 25F not complied- Workman entitled to reinstatement with back wages.

24. In State insurance and provident fund department Rajasthan Vs Rameshwar Prasad 1995 (1) SCT 609 the workman was appointed for three months. He was however, allowed to continue after expiry of the above term. It was held that if in such a situation the workman completed 240 days, he is entitled to retrenchment compensation and provision of section 2(oo)(bb) would not be attracted.

25. Again, merely because an employee is on probation is also no ground to deny the benefit of section 25F, Thus, in the case of **Gram Panchayat, Dam Nagar V.s Sharad Kumar D. Acharya 1994 (3) SCT 788**, it was said :-

"The first contention is concluded by the Supreme Court in case of Karnatka S.R.T corp. Vs M.Boraiah 1984(1)SCC 244: (AIR 1983 SC 1320) wherein it has been held that Sec. 2(oo) convey every case of termination of service except those which have been embodied in the definition and, therefore discharge from employment or termination of service of a probationer, would also amounts to retrenchment and compliance with the requirement of sec. 25 F in the case of such termination in the case of such termination is essential and necessary consequence of non compliance with Sec. 25 F would render the termination void. Therefore, the first contention must fail."

26. A similar view has been in the case of Municipal Corporation Gobind garh Vs Presiding Officer, Labour Court, Patiala 1994 (2) SCT 14 Punjab & Har.) It was observed in 8 thus :-

8. It is true that " termination of the services of the workman as a resulted of the non renewal of the contract of employment .. on its expiry or of such contract being terminated under a stipulation in that behalf contained therein" does not amounts to retrenchment as contemplated under sec. 2(oo) of the Act. If a person is engaged for a specific period or for the execution of a specific work and a clear stipulation is made in the contract of employment that the services shall be terminated at the expiry of the work , The workman shall not be entitled to claim that he has been retrenched or that the action is violative of the provisions of the Act. In such a situation, even the provisions of Sec. 25F shall not be attracted. Consequently , The Labour Court shall be entitled to reject the claim of the workman. It is equally true that where on account of reasons of economy etc. the management bona fide decides to abolish certain post and retrenched its employee, the Court shall not force the employer to create posts and reinstate the workman. However those are all question of fact which have to prove by reading cogent evidence.

The view expressed by Punjab and Haryana High Court, Gujarat High Court and Rajasthan High Court have been taken note of in the preceding paras, it would apt to take notice of the view expressed by the Court in Ram Krishan Sharma Vs Samrat Ashok Technical Institute vidisha 1995 MPLJ 53. The view of this Court is in consonance with the view expressed above. It was held that the employer cannot steal away the protective umbrella provided to an argument by resorting to section 2 (oo)(bb) of the Act. Shri Sancheendra Dwivedi J , while dealing with this aspect of the matter as under:-

26. Even with intermittent break , once an employee completed 240 days of employment and if his last letter of appointment or renewal contains the automatic clause, stipulating the termination of his service, the right accrued to the employee cannot be taken away by employing the exception clause of (bb). It would still be retrenchment. To retrench is to cut down. You cannot retrench without trenching or cutting. Any other view would result in shrinkage rather in swallowing the principal clause of section 2 (oo) itself which the parliament would never have

contemplated in view of the scheme of the Act. This cannot be the function of an exception . An employer cannot steal away the employee's umbrella provided by section 2 (oo) . 24 B read with 25 F of the Act. By serving an employee the last letter of his appointment or the renewal with the stipulation of termination of service under the contract, so as to bring the termination within the excepted category and to snatch it out of the purview of retrenchment.”

26. From the decisions noted above it becomes apparent:-

- i) That the provisions of section 2 (oo) (bb) are to be construed benevolently in favour of the workman:-
- ii) That if the workman is allowed to continue in service by making periodic appointments from time to time. Then it can be said that the case would not fall under section 2 (oo) (bb) .
- iii) That the provisions of sec. 2 (oo) (bb) are not to be interpreted in the manner which may stifle the main provision:
- vi) That if the workman continues in service. The non-renewal of the contract can be deemed as malafide and it may amount to be a fraud on statute:
- v) That there would be wrong presumption of non-applicability of section 2 (oo) (bb) where the work is of continuous nature and there is nothing on record that the work for which a workman has been appointed had come to an end.

27. As per order of Supreme court (L&S) 451 Sudarshan Rajpoot vs Utter Pradesh State Road Transport Corporation in Civil Appeal Nos. 10355-54 of 2014 decided on 18 Nov. 2014 some portion is quoted below :-

“Industrial Dispute Act, 1947 S-2 (ra) r/w Ss25 T, S, 25 U and sch-V Item 10 -Prohibition from engaging workman as badlis, casual or temporary to work on permanent basis – service of appellant workmen who was continuously working for more than 3 years and had rendered more than 240 days of service in calendar year terminated without notice- Held extracting work of permanent nature continuously for more than three years on contract basis is statutorily prohibited and hence impermissible – same amount to unfair Labour practice and is punishable.”

28. considering the above discussion and the legal position, the workman rendered more than six years of continuous services is entitled for regularisation. Therefore the workman be regularised at once in the post of staff nurse against the regular vacant post soon after the publication of award as in this case 25 F of the I.D Act is not complied and the workman renderd more than six years service under the management as well as PF/EPF is also not deducted from the workman within six years.

29. Considering the facts and circumstances of this case, I hold that the action of the Management of UCIL, for not regularizing the services of Smt. Shila Rani as Staff Nurse as well as during the period under consideration, terminated the workman is not legal and justified, Hence the workman is entitled for regularisation w.e.f. date of reference with 50% of back wages. If her service is not regularised within 6 months she be given 75% of back wages till she is not regularised.

This is my award

R. K. SARAN, Presiding Officer

नई दिल्ली, 15 फरवरी, 2018

का.आ. 353.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मेसर्स भारतीय जीवन बीमा निगम के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, नागपुर के पंचाट (संदर्भ सं. 03/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.02.2018 को प्राप्त हुआ था।

[सं. एल-17012/52/2008-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 15th February, 2018

S.O. 353.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 03/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. Life Insurance Corporation of India and their workman, which was received by the Central Government on 12.02.2018.

[No. L-17012/52/2008-IR (M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**BEFORE SHRI S.S. GARG, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR****Case No.CGIT/NGP/03/2009**

Date: 11.01.2018

- Party No.1** : The Sr. Divisional Manager,
LIC of India, Divisional Office,
Jeevan Prakash Near Dafrin Hospital,
Shrikrushnapet, Amravati-444 601.
- : The Chairman-cum-Managing Director,
Life Insurance Corporation of India,
Central Office, "Yogakshema" Nariman
Point Mumbai-400 021.

Versus

- Party No.2 :** Shri Laxminaryan
S/o. Sh. Sarjuprasad Jaiswal, R/o. 24-A,
New Colony, Dastur Nagar, Amravati,
Distt. Amravati. (MS)

Dated: 11th January, 2018**AWARD**

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of LIC of India, Divisional Office and their workman, Shri L.S.Jaiswal, for adjudication, as per letter **No.L-17012/52 /2008-IR (M)** dated **29.01.2009**, with the following schedule:-

"Whether the action of the Sr. Divisional Manager (Disciplinary Authority) and the Zonal Manager (Appellate Authority) of the LIC of India in imposing the penalty of 'Dismissal' and recovery of Rs. 71,750/- from the applicant workman, Shri L. S. Jaiswal is justified, legal and proper? What relief the workman is entitled to?"

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the workman Shri Laxminarayan , ("the workman" in short) filed the statement of claim and the management of Life Insurance Corporation of India ("party no.1" in short) filed the written statement.

The case of the workman as presented in the statement of claim is that in the year 1990, he was appointed as HGA by the party no.1 and after his resuming the duties as HGA, he discharged his duties to the best of his abilities with honesty, sincerity and integrity and his duties and functions were always under the control and supervision of the Branch Manager and authorities at Divisional level and he never had any independent administrative or financial power to exercise and he had also no decision making or supervisory power and he was discharging his duties as per the service norms, but while working at Achalpur branch, to his utter shock and surprise, he received the show cause notice/charge sheet dated 17.02.2000 issued under regulation 39 of LIC of India (Staff) Regulation 1960 on the allegations of making irregular S.B. Payments under lapsed policies, irregular S.B. payments on lapsed policies for more than one occasion under same policy and irregular S.B. payments under lapsed policies to fictitious persons and he attended the enquiry, which was conducted by the enquiry officer, Shri S.R. Gaharwal and in the departmental enquiry, the department did not examined any witness and did not prove the documents, which were listed in the charge sheet and he had filed several documents to prove the incorrectness of the contention raised by the department in the enquiry proceeding and the charges levelled against him and he also submitted his submission in writing on 07.02.2001 and during the enquiry, he was not given the chance to cross-examine the persons, whose statements were produced against him and he was one of the signatures on the cheque payments and the second signatory was equally responsible and the payments above his financial power had been passed by the other persons were also equally responsible and he was made scapegoat and all the responsibilities to the irregularity of the office were chained on his neck and the enquiry was conducted in a haste and nothing but a prejudice against him and the management failed to prove the charges levelled against him and the enquiry officer submitted his report dated 15.02.2001 holding him guilty of all charges levelled in the charge sheet and the findings of the enquiry officer were against the evidence on record of the enquiry and prior to the issuance of the charge sheet, there was in-house enquiry against him and on the basis of the conclusions of the in-house inquiry, the charge sheet was submitted against him and as he had not participated in the in-house enquiry, the enquiry officer was prevented from making use of the materials of the in-house enquiry against him in the departmental enquiry and as such, the report submitted by the enquiry officer is devoid of any legal sanctity and the disciplinary authority issued show cause notice dated 25.09.2003 and he submitted his reply to the same on 14.10.2003 pointing out as to how the finding recorded by

the enquiry officer not to be in accordance with the principles of natural justice and the disciplinary authority by order dated 11.11.2003 passed the order of dismissal from services and recovery of Rs. 71,750/- and he preferred an appeal against the order of punishment before the appellate authority dated 23.04.2004, but vide communication dated 23.04.2004, the same was rejected.

It is further pleaded by the workman that the charge sheet submitted against him basing on the result of the in-house enquiry was illegal and devoid of legal sanctity and the department failed in proving any of the charges against him and the findings of the enquiry officer holding the charges to have been proved against him are patently illegal and not based on the evidence on record of the enquiry and based on extraneous consideration and on inadmissible material and the disciplinary authority without applying of mind passed the order of punishment and as such, the same is liable to be quashed and set aside.

The workman has prayed to quash and set aside the order of punishment and his reinstatement in service with continuity, full back wages and other consequential benefits.

3. In the written statement, denying all the adverse allegations made in the statement of claim the party no.1 has pleaded inter-alia that the workman was initially appointed as an Assistant in class-III cadre and after putting in the required service for promotion, he was promoted as Higher Grade Assistant ('HGA' in short) w.e.f. 25.10.1997, which is the next higher post in class-III cadre having supervisory powers and power to pass the payments of the policy holders relating to LIC policies and the workman was posted in claims department at Achalpur branch and he took charge as HGA on 03.11.1997 and the workman dealt with payments of Land less Agriculture Labour Group Insurance payments ("LALGI" in short) and he was having financial powers as per Financial Power Standing Instructions, 1960 as amended from time to time and he was empowered to pass the survival benefit claims and to sign the cheque on its (party no.1) jointly with one other authorized signatory and charge sheet dated 17.02.2000 and not show cause as claimed by the workman was served on the workman and provisional list of documents relied upon and to prove the charges was also enclosed alongwith the charge sheet and during the course of enquiry the workman himself produced some M R numbers, under which the defrauded amount was refunded to the LIC and while fixing the responsibility by it, proper weightage was given for the recovery of the amount and the total recovery due was Rs. 2,53,750/- and out of the said amount, an amount of Rs. 1,78,000/- was recovered from eight persons and the amount of Rs. 4000/- which was lying as cheque cancelled amount was also deducted and the rest amount of RS. 71,750/- was ordered to be recovered from the workman and the workman was given copies of all documents and was allowed inspection of the originals filed in the enquiry and if he wanted to cross-examine any of the persons, whose statements were filed, then he ought to have raised an objection before they were admitted in evidence and he should have requested for calling those persons for cross-examination with reference to their statements so filed and annexure-5 filed by the workman alongwith the statement of claim bears testimony to this fact and having admitted the correctness of the statements, there was no need to proof the said statements in accordance with the Evidence Act by examining their authors and the objection raised by the workman that he was not allowed to cross-examine the persons, whose statements were filed is clearly an afterthought and the disciplinary authority and so also the appellate authority have referred to this fact in their respective orders and the workman is stopped from raising the said ground, having admitted them by not raising any objection at the time of their production and admission and before the enquiry officer, it had declared not to examine any witness, since the workman did not raise any objection for admission of the documents tendered in the enquiry proceedings and the workman also did not produce any witness and the workman attended the enquiry and also signed on the enquiry proceedings and the in-house enquiry has no relevance to the disciplinary enquiry and in-house enquiry is always conducted to ascertain as to whether the concerned employee has committed misconduct which attracts a major punishment and the ground raised by the workman are false and he was given full reasonable opportunity to tender his defence and the reasoning of the enquiry officer is cogent and the disciplinary authority as well as the appellate authority have applied their minds to the charges levelled against the workman and the evidence tendered and have given their conclusion by analyzing the evidence and giving cogent reasons for the same and the workman is not entitled to any relief.

4. As this is a case of dismissal of the workman from services, after holding a departmental enquiry, the validity of the departmental enquiry was taken as a preliminary issue for consideration and by order dated 24.07.2014, the departmental enquiry conducted against the workman was held to be legal, proper and in accordance with the principles of natural justice. Against this order petitioner filed a writ petition before the Hon'ble High Court of Judicature at Bombay, Nagpur Bench, Nagpur vide WP No. 5422 of 2014 and vide order dated 25.02.2016 the Hon'ble High court directed this Tribunal that "the findings recorded on this issue can be challenged after the ultimate decision in the dispute pending before this Tribunal"

5. Both the parties, in order to prove their respective stands have relied on documentary evidence. Besides the documentary evidence, the workman has examined himself as a witness in support of his case. Party no.1 has not adduced any oral evidence.

6. On behalf of the petitioner Shri Darda on the basis of case law of the Central Administrative Tribunal, Delhi in case of Shailender Kumar Vs. Union of India O.A. No. 2805/2013 dated 13.05.2015, argued that, the workman had no independent administrative or financial power to exercise the finance matter. But he had only supervisory power. He also argued that allegation under the charge sheet in the enquiry did not prove by examining any witnesses and workman

was not given the opportunity to cross-examine the management witnesses. So according to the workman, it is clear violation of principles of natural justice and rules and regulations, framed by the management. He also argued that workman was one of the signatory of the cheque and other signatory of the cheques was equally responsible for the irregularities. So charge sheet itself is illegal and conclusion of in house enquiry and the same is devoid of legal sanctity.

7. Per contra, management based his argument on case law, Coimbatore District Central co-operative bank Vs. Employee Association (2007) IV SCC 669, Maharashtra State Seed Corporation limited Vs. Hari Prasad (2006) III SCC 690, State Bank of India Vs. Belabagchi (2005) VII SCC 435, Managing Director, North East Karnataka Road Transport Corporation Vs. K. Murthy (2006) XII SCC 570 and Pandiyan Roadways Corporation Vs. N. Balkrishnan (2007) IX SCC 755, argued that the charge sheet was served on the workman for committing grave misconduct and reasonable opportunity was given to the workman to defend himself. All procedure was followed in consonance of principles of natural justice. He also argued that this tribunal held departmental enquiry legal and proper.

8. Now we see the legal position:- Management's advocate to support his argument put following case laws :-

State Bank of Bikaner and Jaipur Vs Nemichand, Civil Appeal No. 5861 of 2007, SC dated 01.03.2011, Regional Manager, U.P.S.R.T.C. Vs Hotilal, Civil Appeal No. 5984 of 2000 dated 11.02.2003, State Bank of India Vs Ramesh Dinkar, Civil Appeal No. 2055 of 2003 dated 11.08.2006, Devendra Kumar Vs State of Uttarakhand, Civil Appeal No. 1155 of 2006 dated 29.07.2013 and Bharat Forge Company Ltd. Vs A.B. Zodge, A.I.R. 1996 SC 1556, in which following legal principles are laid down:-

- i. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record.
- ii. Therefore, courts will not interfere with findings of fact recorded in departmental enquires, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a Tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. Courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, malafide or based on extraneous considerations.
- iii. When a court is considering whether punishment of 'termination from service' imposed upon a bank employee is shockingly excessive or disproportionate to the gravity of the proved misconduct, the loss of confidence in the employee will be an important and relevant factor.
- iv. That having regard to the gravity of the established misconduct, the punishing authority had the power and jurisdiction to impose punishment.
- v. Legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct.
- vi. The position in our country, in administrative law, where no fundamental freedoms as aforesaid are involved, is that the courts/tribunals will only play a secondary role while the primary judgment as to reasonableness will remain with the executive or administrative authority.
- vii. Court interfered with the punishment only after coming to the conclusion that the punishment was in outrageous defiance of logic and was shocking.
- viii. If the charged employee holds a position of trust where honesty and integrity are inbuilt requirements of functioning, it would not be proper to deal with the matter leniently. Misconduct in such cases has to be dealt with iron hands.
- ix. Misrepresentation itself amounts to fraud, and further held fraudulent misrepresentation is called deceit and consists in lending a man into damage by willfully or recklessly causing him to believe and act on falsehood.
- x. If the initial action is not in consonance with law, the subsequent conduct of a party cannot sanctify the same.

9. Now we discuss of the evidence with reference to argument of the workman. The workman in his evidence on affidavit has reiterated the facts mentioned in the statement of claim. However, in his cross-examination, he has admitted that three charges were levelled against him. He had received the charge sheet dated 07.02.2000 and submitted his reply to the same and Shri S.R. Gaharwal was appointed as the Enquiry Officer to make enquiry and he attended the enquiry from the beginning to the end and he did not appoint any co-worker and management did not examine any witness in the enquiry and management adduced documentary evidence in his presence and copies of all documents were supplied to him.

10. The workman asserted in his evidence that he examined himself in his defence and he filed his written brief after closure of his evidence and the copy of the enquiry report and second show cause notice was served on him. The

workman has also admitted that he signed on the proceedings of the departmental enquiry on the dates on which, he attended the enquiry and the proceedings of the departmental enquiry were supplied to him and the contents of the departmental enquiry are correct and as per the directions of the Hon'ble High Court in the writ petition filed by him, he made inspection of the original documents connected with the departmental enquiry.

11. As per as departmental enquiry is concerned, Hon'ble Supreme Court in case law, LIC Vs. Rampal Singh, 2010 3 JT (SC) 54 and Shailendra Kumar Vs. Union of India, Hon'ble Central Administrative Tribunal hold that, "Mere admission of the document in evidence does not amount to its proof. In other words, mere marking of exhibit on a document does not dispense with its proof, which is required to be done in accordance with law.....No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof."

12. On perusal of the records, it appears that, no witness was examined on behalf of the management, so opportunity to cross-examine on the point of document was given to workman, so in my opinion, as principle laid down on the above case, this is **defect in departmental enquiry.**

13. On behalf of the workman, as we already mentioned that, due to defect in enquiry, workman was prejudiced, so argument was that, findings recorded in the departmental enquiry as well as in the punishment are perverse but that argument was denied on behalf of the management by saying that, workman took fraudulently payment of policy holder in the name of relatives knowingly and deliberately.

14. On behalf of the management, it is also argued that, management took action against all negligent officers, H.Tirkey, Y.T. Bhagat, P. G. Lontngane, S.S. Mukhare and other officers. He also presented LIC Office letter dated 29.04.2000. He also argued that even workman is higher grade associate but he has financial power to prove this fact, he submitted LIC's Standing Orders, 1960 (As amended 31.03.1989). He wants to show that even workman was a supervisory staff but he has financial power. This argument was not denied by the workman. In the written notes of argument, para no. 3, workman also mentioned that, "The workman was one of the signatories on the cheque issued -----SB payment----- to the fictitious persons".

15. On perusal of the documents, it also appears that, department recovered the default amount from various officers including workman. As for example, 12,000/- recovered from Tirkey and 42,400/- recovered from V.V. Dange and so on. It is also appeared that LIC filed a Civil Suit against the workman for recovery of 3,15,835/-, which was decreed by Joint Civil Judge, Jr. on 15.02.2013, on the basis of graving and misappropriation by the workman.

16. On behalf of the management, it was also argued that, the workman fraudulently took payment of the lapsed policy holder, Y.K. Raut, B.R. More and M.A. Habir in favour of his daughter/wife, B.D. Jaiswal, brother, Rajabhai Jaiswal and one neibhour, Wankhede . Management also produced documents in support of his argument. Workman denied the argument but did not file any document in support of his argument.

17. In the case law, A.P.S.R.T. Corporation Vs G. Murali, 2017 LLR 1233 held that, "Statement recorded by the TTI from the passengers cannot be taken in evidence, as no opportunity was given respondent to cross-examine".

18. After perusal of the record, I want to mention some facts, established in this case:-

- (i) Workman was higher grade assistant equivalent to supervisor which has financial power.
- (ii) Charge was framed against the workman on 07.02.2000. Departmental enquiry was run from 18.01.2001, 15.02.2001 in which no oral evidence was taken place.
- (iii) Show cause notice was issued to the workman on 25.09.2003. He was dismissed from service on 11.11.2003. He filed an appeal, which was also dismissed on 03.07.2004. On defence, workman did not examine any witness.
- (iv) As per the workman's advocate, now the age of workman is 48 years. He has no gainful employment.

19. It is also laid down in above case law that, Disciplinary Authority and Appellant Authority being the fact finding authority, this Tribunal is not Appellate Authority. It is also held that, Tribunal will only play secondary role, while the primary judgment as to reasonableness will remain with the executive of administrative authority.

In case law--- Delhi Transport Corp. vs. Omber Singh 2017 LLR 252, Hon'ble Lordship held that "Where principles of natural justice are not being complied with, then in such cases, compensation ought to be granted even if termination of service is found to be valid". On the basis of principle laid down in Engineering Laghu Udyog Employees Union vs Judge, Labour Court and Industrial Tribunal & others – (2003) 12 SCC 1 in which it was held that:- "no difference whether the matter comes before the tribunal for approval under S.33 or on a reference under S.10 of the Industrial Dispute Act, 1947. In either case if the enquiry is defective or if no enquiry has been held as required by Standing Orders, the entire case would be open before the tribunal and the employer would have to justify on facts as well that its order of dismissal or discharge was proper." "A defective enquiry in our opinion stands on the same footing as no enquiry and in either case the tribunal would

have jurisdiction to go into the facts and the employer would have to satisfy the tribunal that on facts the order of dismissal or discharge was proper."

It will be open to the Tribunal to pay compensation even in a case where ultimate charges are proved, despite holding that the order of termination is valid for the reason that principles of natural justice have not complied with.

20. Judging the present case in hand with the touch stone of the principles as mentioned above, it is found that law is well settled that where principles of natural justice were not complied with, then in such cases compensation ought to be granted because termination of the services in my opinion is valid. In view of the discussion made above and the materials on record, it is found that there is no scope to interfere with the order of the punishment of dismissal from services passed against the workman. Hence, it is ordered:-

ORDER

The action of the Sr. Divisional Manager (Disciplinary Authority) and the Zonal Manager (Appellate Authority) of the LIC of India in imposing the penalty of 'Dismissal' and recovery of Rs. 71,750/- from the applicant workman, Shri L.S.Jaiswal is justified, legal and proper, but due to lack of procedure in departmental enquiry, the workman is entitled for lumpsum compensation of Rs. 50,000/- (Rupees fifty thousand only) from party no.1 in lieu of reinstatement, which is payable within one month from the publication of this award in official gazette, failing which, the amount due to the workman will carry interest of 6% per annum from the date of due to the workman to the date of actual payment of the amount to the workman. The workman is not entitled for any other relief.

S. S. GARG, Presiding Officer

नई दिल्ली, 15 फरवरी, 2018

का.आ. 354.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मैसर्स ए. जे. इलेक्ट्रीकल वर्क्स एवं अल्ट्राटेक सीमेन्ट लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, नागपुर के पंचाट (संदर्भ सं. 10/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.02.2018 को प्राप्त हुआ था।

[सं. एल-29011/10/2009-आईआर (एम)]

डॉ. के. हिमांशु, अवर सचिव

New Delhi, the 15th February, 2018

S.O. 354.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 10/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. A. J. Electrical Works and Ultra Tech Cements Ltd. and their workman, which was received by the Central Government on 12.02.2018.

[No. L-29011/10/2009-IR (M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NAGPUR

संख्या/No. CGIT/NGP/10/2010

दैनिक/DIARY

दिनांक/Date	प्रदर्श सं Exhibit No.	प्रगती PROGRESS
____ 54 ____		Party No.1(a): M/s. A. J. Electrical Works,

<p>18.01.18</p> <p>At Awarpur Cement Works, Post Awarpur, Tehsil: Korpana, Distt. Chandrapur.</p> <p>Party No.1(b): The Unit Head, M/s. Ultra Tech Cements Ltd., Awarpur Cement Works, Post: Awarpur, Tehsil: Korpana, Distt. Chandrapur.</p> <p style="text-align: center;">V/s</p> <p>Party No.2 : The General Secretary, L&T Cement Kamgar Sangh, At & Post: Awarpur, Tehsil: Korpana, Distt. Chandrapur.</p>	
<p>ORDER</p> <p>In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) (“the Act” in short), the Central Government has referred the industrial dispute for adjudication between the management of M/s A.J. Electrical Works Ultra Tech Cements Ltd. and the General Secretary, L&T Cement Kamgar Sangh, vide letter No. L-29011/10/2009-IR(M) dated 06.10.2009, on the following schedule:-</p> <p>“Whether the action of the management of M/s. A. J. Electric Works, Awarpur, Distt. Chandrapur a contractor of M/s Ultra Tech Cement Ltd. Awarpur Cement Works in terminating the services of Shri Rajkumar Budhaji Meshram verbally is proper & justified? What relief the workman is entitled to and from which date?”</p> <p>2. On receipt of the reference, notices were issued to parties to file claim, and written statement and accordingly the petitioner filed its Statement of claim and affidavit and the party No. 1, management did not file written statement.</p> <p>Today i.e. on 11.01.2018, a joint Pursis is filed, in which, they pray to withdraw the reference, as they settled their dispute out of the Court. Party No. 1 is identified by Advocate, M.R. Pillai and Party No. 2 is identified by Advocate, A.A. Madiwale. They also file Xerox copy of the cheque and authority letter of M/s. A.J. Electrical Works.</p> <p>So, the Pursis for settlement dated 11.01.2018 is allowed. Hence, it is ordered:-</p> <p>ORDER</p> <p>The Pursis for settlement of the case is allowed. The case is treated as withdrawn. The Pursis dated 11.01.2018 filed by the both parties for withdrawal of the case is made part of the order. The reference is answered in the negative and against the petitioner. The</p>	

		petitioner is not entitled to any relief.	
		S. S. GARG, Presiding Officer	

नई दिल्ली, 15 फरवरी, 2018

का.आ. 355.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मैसर्स भारतीय जीवन बीमा निगम के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ सं. 29/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.02.2018 को प्राप्त हुआ था।

[सं. एल-17011/3/2016-आईआर (एम)]

डी. के हिमांशु, अवर सचिव

New Delhi, the 15th February, 2018

S.O. 355.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 29/2016) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. Life Insurance Corporation of India and their workman, which was received by the Central Government on 12.02.2018.

[No. L-17011/3/2016-IR (M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

BHARAT PANDEY, Presiding Officer

I.D. 29/2016

Reference No. L-17011/3/2016-IR (M) Dated: 14.12.2016

Shri Subhash Soni
S/o Sh. Shambhu Lal Soni
C/o Sayunkt Mahamantri, Hind Mazdoor Sabha,
626/24-C, Jadam Bhawan, Narishala Road,
Shakti Nagar, Ajmer (Rajasthan)-305001.

V/s.

The Sr. Divisional Manager
M/s. Life Insurance Corporation of India
Divisional Office, Ranade Marg,
Alwar Gate, Ajmer (Raj.)- 305001.

Dated : 16.11.2017

AWARD

1. The Central Government in exercise of the powers conferred under clause (d) of Sub Section 1 & 2 (A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:-

“क्या श्रीमान वरिष्ठ मण्डल प्रबंधक, भारतीय जीवन बीमा निगम, मण्डल कार्यालय, अजमेर (राज.) द्वारा कर्मकार श्री सुभाष सोनी पुत्र श्री षंभूलाल सोनी को दिनांक 17.10.2014 से सेवा से मुक्त करने की कार्यवाही वैधानिक एवं न्यायसंगत है? यदि नहीं तो प्रार्थी किस राहत का और कब से पाने का हकदार है?”

2. Pursuant to the receipt of the reference order, registered notices were issued to both the parties as per the order of the tribunal fixing 23.3.2017 for filing statement of claim.

3. Notices were served to both the parties. Acknowledgement relating to notice sent to the applicant Sh. Subhash Soni has already returned back & is available on record. Authority dated 18.4.2017 of Sh. Jugal Kishore Agrawal, Advocate on behalf of non-applicant LIC of India is also available on record. Statement of claim has not been filed by applicant till date.

4. From perusal of record it appears that on 27.1.2017 a registered letter was received by this tribunal sent by applicant Sh. Subhash Soni which has been placed on record of this file. Content of letter consists of photocopy of letter dated 13.1.2017 sent by applicant Sh. Subhash Soni to the Secretary, Ministry of Labour & Employment, Govt. of India, New Delhi, photocopy of petition no. 2/16 Sh. Subhash Soni v/s LIC of India u/s 2-A I.D.Act, 1947 filed by applicant before Labour Court & Industrial Tribunal, Ajmer & photocopy of certified copy of reply to petition of the applicant. From perusal of the petition no.2/16 it appears that before reference dated 14.12.2016 was issued by Government of India for adjudication, applicant Sh. Subhash Soni filed petition u/s 2-A I.D.Act, 1947 before the Labour Court, Ajmer on 19.10.2017 & he was pursuing the case at Ajmer since then. Letter dated 13.1.2017 indicates that applicant Sh. Subhash Soni after receipt of reference dated 14.12.2016 has requested the Hon'ble Secretary to Ministry of Labour & Employment that Labour Court situated at Ajmer may be directed to adjudicate the reference dated 14.12.2016 sent to this tribunal at Jaipur for adjudication. In above circumstance, this case registered on the basis of reference dated 14.12.2016 was prolonging in this court in anticipation that there may be an order of transfer of reference to Ajmer based on request of the applicant Sh. Subhash Soni. Applicant had sent a reminder dated 8.5.2017 to Hon'ble the Secretary to the Ministry of Labour & Employment in continuation of his letter dated 13.1.2017. A copy of the letter dated 8.5.2017 has been sent to this tribunal which is available on the record of the file. The case of the applicant based on reference dated 14.12.2016 continued in this tribunal in absence of applicant as well as statement of claim in anticipation that applicant will appear & file statement of claim or he will have this reference transferred to Ajmer.

5. On 26.10.2017 learned counsel for non-applicant appeared & filed the ordersheet dated 30.5.2017 relating to case no.2/2016, Sh. Subhash Soni v/s LIC of India. None appeared on behalf of applicant & statement of claim was also not filed. From perusal of ordersheet dated 30.5.2017 it appears that the case no. 2/16 was fixed for evidence on 30.5.2017. No evidence has been recorded on 30.5.2017 & has been disposed by Labour Court, Ajmer on the basis of statement of learned counsel for the applicant. The learned counsel for applicant has alleged before the Labour Court on 30.5.17 that applicant does not intend any further proceeding in the case & he will pray to restore the case for further proceeding after receipt of transfer of reference or he will pursue the matter before the concerned court at Jaipur. On the basis of above statement learned Labour Court, Ajmer has dismissed the statement of claim of the applicant with further observation that after receipt of reference on transfer applicant will be at liberty to have the case restored or he may pursue his matter before the concerned court. After perusal of the order dated 30.5.2017 this court on 26.10.2017 has formed an opinion that applicant does not want to pursue this matter in this court & the reference is pending needlessly because he has not filed the statement of claim till now even after laps of more than five months since 30.5.2017.

6. It is pertinent to mention that reference dated 14.12.16 has not been transferred from this tribunal to the Labour Court, Ajmer. This fact is also undisputed that the case filed u/s 2-A before the Labour Court, Ajmer has already been dismissed. Since 30.5.17 applicant has neither appeared nor has filed statement of claim before this tribunal despite notice of the fact that the case is pending before this tribunal on the basis of reference dated 14.12.16. In the circumstances & in the absence of material evidence brought on record, this tribunal is unable to record the finding on merit on the issue referred to it. Accordingly, "No Claim Award" is passed against the reference under adjudication. The reference under adjudication is answered accordingly.

7. Award as above.

8. Let a copy of the award be sent to Central Government for publication u/s 17(1) of the I.D.Act.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 16 फरवरी, 2018

का.आ. 356.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, स्टैट बैंक ऑफ बीकानेर एवं जयपुर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण, पटना के पंचाट (संदर्भ सं. 03 (सी)/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.02.2018 को प्राप्त हुआ था।

[सं. एल-12025/01/2018-आईआर (बी-1)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 16th February, 2018

S.O. 356.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 03 (c)/2017) of the Central Government Industrial Tribunal-cum-Labour Court, Patna as shown in the Annexure, in the Industrial Dispute between the management of State Bank of Bikaner and Jaipur and their workman, which was received by the Central Government on 16.02.2018.

[No. L-12025/01/2018-IR (B-1)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PATNA

I.D. Case No.: 03 (C) of 2017

Between The Assistant General Manager State Bank of Bikaner & Jaipur, Regional Office, Natraj Building, 3rd Floor, Opp. Kulharia Complex, Ashok Rajpath, Patna-800004 and their workman Sri Sanjay Kumar Singh, Vill.- Sheikhpura, P.O- Dhelwan, P.S. - Ram Krishna Nagar, Dist.- Patna-80020.

For the management : Mr. Kumar Satyam, Reg.-1 Manager (HR) Reg.-1 Patna,

For the workman : Sri B. Prasad, Bank Employees Federation, Bihar.

Present : Vishweshwer Nath Mishra, Presiding Officer,
Industrial Tribunal, Patna.

Patna, dt. 30th January, 2018

AWARD

1. The present case has been filed u/s- 2A (1 & 2) of the Industrial Dispute (Amendment) Act, 2010 by the aforesaid workman who seeks relief of reinstatement, regularisation and payment of due wages.
2. Matter was raised by the workman before the Regional Labour Commissioner (Central), Maurya Lok, Patna (for short RLC (C), who issued notice vide file No.- 2/79/2016/RLC dt-2/3.11.2016.
3. As per para-5 of claim petition the workman has stated that the period of more than 45 days has passed with no sign. of any settlement. Accordingly, the workman prefers to file an application before this tribunal as per the provision of section 2A (1 & 2) of the Industrial Disputes (Amendment) Act, 2010.
4. As per statement of claim of the workman, he has stated that he was orally appointed to discharge the duties of a peon at Bhagalpur Branch w.e.f. 01.10.2014. Workman raised the point mentioned in the aforesaid para and he has also stated that the management employed the workman as there was no permanent subordinate staff at Bhagalpur Branch. Workman is seeking relief in this court for his reinstatement in the service of the Bank as a peon / messenger with back wages, regularization of service, etc.
5. On 01.11.2017 workman appeared and filed withdrawal petition on behalf of the management Mr. Kumar Satyam, Manager (HR) Sub. Reg.-1 Patna also appeared on 01.11.2017.
6. In presence of both the parties, evidence was recorded on the point of withdrawal petition filed by the workman.

W.W-1 Sri Sanjay Kumar Singh the workman himself has been examined, cross-examined and discharged.

7. From perusal of the record, it appears that workman filed a petition u/s- 2A (1 & 2) of the Industrial Dispute (Amendment) Act, 2010, on the ground mentioned in the aforesaid claim petition. W.W-1 Sri Sanjay Kumar Singh has stated that same case has already been going before the CGIT No.-1 Dhanbad and for that reason he wants to withdraw the case before the Industrial Tribunal, Patna. In cross- examination he has stated that this case is being withdrawn without any pressure.

8. In view of the aforesaid, facts & circumstances of this case, I find that as the same dispute is pending before the CGIT-I Dhanbad for decision. Accordingly, the prayer of the workman to withdraw this I.D Case No.- 03 (C) of 2017 pending before this tribunal is hereby allowed. This being the situation it is held that presently there is "No Dispute" between the parties. Hence, I passed "No Dispute Award". This award is effected after gazette notification / publication of award.

Accordingly, this is my award.

VISHWESHWAR NATH MISHRA, Presiding Officer

नई दिल्ली, 16 फरवरी, 2018

का.आ. 357.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, भारतीय स्टैट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, धनबाद के पंचाट (संदर्भ सं. 5/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.02.2018 को प्राप्त हुआ था।

[सं. एल-12025/01/2018-आईआर (बी-1)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 16th February, 2018

S.O. 357.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 05/2013) of the Central Government Industrial Tribunal-cum-Labour Court No-1, Dhanbad as shown in the Annexure, in the Industrial Dispute between the management of State Bank of India and their workman, which was received by the Central Government on 16.02.2018.

[No. L-12025/01/2018-IR (B-1)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10(1) (d) (2A) of I.D.Act. 1947.

I.D Case No. 5 of 2013

Suryadeo Das
S/o Late Shivajee Das
Vill- Ismailpur (Hassanganj)
P.O- Safiabad, P.S- Kasim Bazar
Dist- Munger

...Applicant /Workman

Vs

Regional Manager
State Bank of India
Administrative Office,
Bhawesh Bhawan, Beatson Road
Khanjarpur , Bhagalpur, 812001

...Opp.Party/ Management

Present : Shri R.K.Saran, Presiding Officer

Appearances:

For the Applicant : Shri V.Kumar, Authorised Rep..

For the Opp. Party : Shri D.K.Verma, Advocate

State : Bihar.

Industry : Banking

Dated 12.01 .2018.

AWARD

This is an application dated 04.10.2013 filed by the petitioner under Sec.2 A of the ID Amendment Act 2010 of the I.D Act.1947, against the order of removal from service vide order dt. 28.07.2012 with prayer to set a side the order of removal and pass an award for reinstatement with full back wages on the basis of pleadings filed by the parties issue involved in this application as below:-

SCHEDELE

“Whether the action of the Regional Manager, Region I of State Bank of India, Regional Business Office, Bhagalpur in imposing the penalty of removal from service of State Bank of India Administrative Office, Bhagalpur upon the workman Suryadeo Das vide order dt. 28.07.2012 in terms of para (b) of memorandum of Bipartite Settlement dt. 10.02.2002 and treatment of suspension period from 26.02.2009 to 28.07.2012 not on duty are proper, legal and justified? If not, to what relief the workman concerned is entitled?”

2. The case is received from the concerned workman U/S 2A of I.D Amemdment 2010 on 04.10.2013. After receipt of reference , both parties are noticed. The Opp.Party files their written statement on 11.02.2014. Thereafter rejoinder and document filed by parties.
3. The point involved in this I.D case is that, whether the removal of the workman from service vide order dated 28.07.2012 is justified or not?.
4. The I.D case of the Applicant is that the instant Industrial dispute was earlier raised by the workman before Asstt. Labour Commissioner (C) over removal of the workman but no action was taken by him as such after expiry of 45 days he has filed this case before this Tribunal as provided under Sec. 2A sub rule I of the I.D Act 1947.
5. The case of the workmen is that, the workmen had been appointed in the permanent service of State Bank of India as Clerk-cum-Cashier on 11.11.1982 and posted at Seikhpora Branch on 16.11.1982 and after confirmation in the service the workman had been transferred to sikandra Branck as senior Assistant on 30.01.2001 . Thereafter the workman has

been transferred to Pirpainti Branch on 21.09.2007 as Special Asstt. Since 11.11.1982 to 21.09.2007 for about 25 years the workman served the Bank honestly, sincerely and punctually with unblemish record, as such the competent Authority selected and designated the workman for special allowance post in the bank as Senior Asstt. And Special Asstt.

6. It is further submitted that the workman had no knowledge of handling computer and he had no qualification ever for running computer. Till 2001 computer was not introduced and installed at seikhpora Branch. For want of knowledge, training and qualification of handling and running the computer in bank's routine transaction the at sikandra and Pirpainti Branch.

7. It is also submitted by the workman that the Officers of those branches handled and run computer on the ID Number of the workman. Whenever the officers of both branches forced the workman to run computer at sikandra and Pirpainti Branches , the workman committed serious mistakes. The Bank never sent the workman for training to handle and run the computer in the bank transactions.

8. It is further submitted by the workman that the transacted cash receipt voucher and cash payment withdrawal slips after transaction are kept by the Daftary. Record keeper and Accountant at Pirpainti Branch as per rule of State Bank of India and the provision made as per the Bipartite Settlement . The Daftary and Record keeper get special allowance for keeping the transacted vouchers and the senior Messengers among the messengers at branch level are designated as Daftary and the record keeper in terms of rule of State Bank of India. Cash Officers of State Bank of India in general and at Pirpainti Branch in particular do not keep transacted cash receipt vouchers and cash payment vouchers as per rule of the bank and the rule is strictly followed by Pirpainti Branch. The workman Suryadeo Das never kept custody of transacted cash receipt vouchers and cash paid withdrawal slip and cheques.

9. It is also submitted by the workman that the Asstt. General Manager (Admn.) S.B.I Bhagalpur vide order dt. 26.02.2009 placed the workman under suspension and attached him with administrative Office Bhagalpur for the purpose of payment of subsistence allowance to him.

10. It is pertinent to place here that on 26.02.2009 neither the enquiry was initiated nor the enquiry was started that pending against the workman by the disciplinary Authority. Hence the suspension of the workman on and from 26.02.2009 to 28.07.2012 was unlawful, unjust, void illegal and without jurisdiction. The disciplinary action and procedure there for is governed by the memorandum of settlement dated 10.04.2002.

11. It is further submitted by the workman that as per chargesheet dated 08.12.2010 the workman was charged for fraudulent withdrawal of Rs. 5,85,000/- from the account of different account holders without submitting the vouchers/cheques by the customers. Further charge against the workman is that he has deposited Rs. 52,000/- in sundry deposit A/C on 24.02.2009 and ultimately bank has suffered a net loss of Rs. 5,33,000/- beside harassment to the customers.

12. The charge-sheet was issued more than one year nine months after the workman was placed under suspension but as per para 6.13.1 of the Vigilance Manual of the Central Vigilance Commission. Emphasizes on speedy investigation into cases in which an officer is placed under suspension and the charge sheet on the officers in cases of departmental proceedings should be served within 03 months of the date of suspension and in cases other than those pending in courts, the total period of suspension, viz. both in respect of investigation and disciplinary proceedings, should not ordinarily exceed 06 months'. But the opposite party took more than one year nine months to issue the charge-sheet and all this while the workman was placed under suspension. which is also against the direction of the Hon'ble Supreme Court in **Ajay Kumar Choudhary vs Union of India [(2015) 7 SCC 291]** wherein the Hon'ble Court held that currency of a suspension order should not exceed beyond three months if within this period memorandum of charges/ charge-sheet is not served on the delinquent officer/employee

13. Before issue of charge sheet a show-cause notice dated 23.04.2009 was given to the workman about all the charges mentioned in the charge sheet and a very specific reply dated 12.05.2009 was submitted by the workman to the Asstt. General Manager SBI Bhagalpur and in the said reply workman had denied all charges and fairly stated that 2 wrong withdrawal was made by him due to bona fide human mistake as he was not aware about the handling of computer . He reported this matter to the Accountant of the Bank that due to some error there is an excess amount of Rs. 52,000/- and reported the Accountant to check the error so that account may be corrected and closed but being Saturday he was in haste to go to his native place Purnea as such he asked me to keep the said excess amount Rs. 52,000/- with him and on Monday he will verify and correct the error.

14. Since there was no provision to keep any amount in sundry A/C in core Banking Branch as such the said amount of Rs. 52,000/- was in my custody but the same was handed over to the Accountant on the same day and after opening the branch on Monday the workman again requested the Accountant to correct the account then he instructed someone to call both the customers in whose accounts debit of Rs. 52,000/- was effected by mistake so that the same will be given to them. As per direction customers called and met the Accountant, but the Accountant asked the customer to give a complaint against the workman and sent the said complaint to higher officer for action without any knowledge of the concerned workman.

15. During hearing on merit before this Tribunal the bank management has proved the allegation of Rs. 52,000/- only which was already deposited by the workman before the enquiry. Except the charge of Rs. 52,000/- Bank is not in a

position to prove any further charges . All the 3 witnessess examined on behalf of the bank has only stated much or less above 52,000/- and not supported any amount more than 52,000/-.

16. On the other hand the case of the management is that the workman while working as special assitt. At Pirpainty Branch of State Bank of India , deliberately misused his position perpetration of fraud in different accounts and causing puncunary loss of Rs. 5,69,000/- to the Bank apart from tarnishing the image of the Bank, this act of the workman was tantamount to gross misconduct in terms of Bi-partite settlement dated 10.04.2002. thereafter the Disciplinary Authority issued show cause notice to the workman vide memorandum dated 23.04.2009 for why a disciplinary action should not initiated against him for commission of misconduct/ misappropriation.

17. Thereafter the workman submitted his reply dated 12.05.2009 which was not found satisfactory, therefore the Disciplinary Authority issued a charge sheet to the workman vide mamorandum dated 8.12.2010 with a direction to submit his written explanation in defence within 15 days but the workman has not submitted any reply. The Disciplinary Authority appointed Sri D.P.Singh the then Chief Manager, Bhagalpur Branch as Enquiry Officer to conduct domestice enquiry in respect of aforesaid charge sheet vide letter dated 10.02.2011. the Enquiry Officer issued notice to appear in the enquiry and present his case.

18. The workman appeared before the enquiry on 11.07.2011 but he preferred to keep mum and did not participated in the proceedings. The workman neither replied to the query of the enquiry nor signed the enquiry proceeding register. Thereafter the workman did not appear before the Enquiry Officer as such the Enquiry Officer had no alternative but to conduct ex-parte enquiry and he submitted his enquiry report against the memorandum dated 8.12.2010. The Disciplinary Authority issued show-cause notice and finaly imposed the penalty of removal him from the Bank services upon the workman for commission of misconduct.

19. Heard both side in length, prior to that one witness adduce on behalf of the Opp.Party on Pre. Point which is Enquiry Officer himself. The Pre. Point is declared as unfair vide order dated 27.01.2016. Thereafter three witness examined on behalf of the opp.Party on merit and one witness examined on behalf of the workman. and document is also marked by the workman as Ext. W-1 to W-26. And document of Opp.Party is marked as M-1 to M-11.

20. Short point is decided in this case , whether the penalty of removal from service of S.B.I Bhagalpur upon the workman Suryadeo Das vide order dt. 28.07.2012 in terms of para (b) of memorandum of Bipartite Settlement dt. 10.02.2002 is proper and justified or not.

21. Perusal of evidence of enquiry officer i.e MW-1 (PP) , he is admitted that the Allegation No. 1 to Allegation No.3 “I have not examined Account Holder” the portion of cross-examination is quoted below:-

“On 11.07.2011 , I saw the workman, who attended the enquiry and I reported for medical examination. Report W-1. The wife of the workman submitted the paper to Bank. Medical Board was constituted and the workman did not attend there. I have not examined the account holder (Allegation No.1) Allegation No.2- I have not examined Binod Sharma. Allegation No. 3-Account holder was not examined.”

22. It is not disputed that the concerned workman was not given computer training and he was also not in a position to operate the computer handling all the operation and this facts was known to the bank and workman himself has shown his inability to handle the computer. Bonafide mistake is possible even if a persons is fully aware about the handling of computer but in the case of the workman who is not aware about computer as no necessary training was given to him, the possibility of mistake in making entry in the computer will be more in comparison with the computer knowing person.

23. It is also a fact which is not disputed by the management, that the workman was suffering from mental disease and he was not able to speak and write any thing and therefore, he was not able to attend the domestic enquiry subsistence allowance was also not paid to the workman and on this ground above the domestic enquiry was held unfair and improper and the removal of the workman based on the said enquiry is also illegal and unjustified.

24. From the show-cause notice, charge and written statement of the Bank, it is very much clear that the case against the concerned workman was started on the basis of so called complaint by 16 customer whose name are given in the show-cause notice as well as in the charge sheet. The charge-sheet is vague. It is very much important that these customers were not produced either before the Enquiry Officer or before the Tribunal and the concerned workman was not a position to cross-examination those so called complaint. On perusal of complaint it is also clear that the complainant, has not mentioned the name of the concerned workman in any of the complaint out of 16 alleged customers only 6 customer made complaint to the bank in writing as alleged by the Bank but the said 6 complainant were not produced during domestic enquiry which has been confirmed by the Enquiry Officer himself.

25. The complainant were also not produced before this Tribunal in support of the case of the Opp.Party and as per settled law, mere a statement taken behind the back of workman is not acceptable. Untill and unless the said person is examined and the workman may get opportunity to cross-examine those persons, but in this case the said 6 so called compalainants were not examined by the bank either during domestic enquiry or before the Tribunal, as such action of the Opp.Party based on the aforesaid compalaint is illegal and unjustified.

26. On 24.02.2009 Rs. 52,000/- was deposited in the bank under the signature of Lala Prasad Rajak, Branch Manager and Prem Prakash Singh, Accountant but Shri Lala Prasad Rajak was on leave on that day which is proved from the attendance register Ext. W-9 from the action of the bank official it is obvious that there was some foul in the Bank and Shri Suryadeo Das who was suffering from mental disease was made scapegoat.

27. It is also a proven fact that Rs. 52,000/- was found in excess by Suryadeo Das on 14.02.2009 and Sri Das immediately reported the matter to the Accountant and handed over the said amount on date and requested him to get the same entered in the computer as Shri Das was not aware about handling of computer, but they have played mischief with Suryadeo Das due to his mental ailment.

28. It is felt that the workman has been victimized due to machinations of the then branch functionaries who in order to cover up lapses on their part conspired to implicate the workman taking advantage of one of his bona fide mistake which took place because of lack of knowledge and proper training. The workman prays to submit that he used to deliver all the vouchers to either the Accountant or the Branch Manager, who were responsible for safe keeping of vouchers, through voucher transit book against acknowledgment but the opposite party bank has deliberately avoided to produce the same for perusal. It is crystal clear that all the allegations of missing vouchers and the resultant allegations are concocted. Workman had made efforts to procure a copy of the voucher & transit book from the opposite party bank through Right to Information Act but the same was denied stating as "The information is not available".

29. The higher authorities of the opposite party bank accepted the version of the then Branch Manager and other functionaries without caring to unravel the truth and issued charge-sheet, second show-cause notice and punishment order to the workman on mere suspicion which is against the established principles. The Constitution Bench of the Hon'ble Supreme Court in **Union of India Versus H C Goel [AIR 1964 SC 364]** held that "mere suspicion should not be allowed to take the place of proof even in domestic enquiries. It may be that the technical rules which govern criminal trials in courts may not necessarily apply to disciplinary proceedings, but nevertheless, the principle that in punishing the guilty scrupulous care must be taken to see that the innocent are not punished, applies as much to regular criminal trials as to disciplinary enquiries held under the statutory rules".

30. A Criminal case was also lodged by the Bank in Pimpaini Police Station, But after through investigation the charges were not proved which is marked as Ext. W-23/24, the case was closed and the workman was discharged from the charges. This fact is also goes to prove the innocence of the workman and final report acceptance by the Court is marked as Ext. W- 25.

31. The Opp. Party was not in a position to prove the charges against him before the police, as well as before this Tribunal and as such the punishment of removal is fit to be set aside on the aforesaid ground and the punishment order which is unreasonable and perverse and manifestly illegal and grossly unjust, the complainant workman will be entitled to reinstatement in service of the opposite party bank with full back wages as held by the Hon'ble Supreme Court of India in a catena of judgments. The Hon'ble Supreme Court of India in the case of **Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D.Ed.) and others [(2013) 10 SCC 324]**.

32. On perusal of close analysis of pleading, evidence and documents of the parties it is clear that on 14.02.2009 Rs. 52,000 was found excess by Shri Suryadeo Das and he reported the matter to the Accountant immediately for rectification of the bona fide human error and handed over the said amount to the Accountant. It is also proved that the Bank is not in a position to prove the charges except Rs. 52,000/- therefore rest of the charges are not proved against Shri Suryadeo Das. It is also proved from duty chart Ext- W-21 (it is received by Opp. Party by way of R.T.I,) that Shri Suryadeo Das was not responsible for maintenance of vouchers. It is also proved from the medical certificate that due to mental ailment, Shri Suryadeo Das was under treatment at Mental Hospital at Kanke, Ranchi. It is also proved that he was suffering from depression w.e.f. 2009 and therefore there is every possibility of mistake as he had no computer knowledge and some foul play by the staff and officer of the bank may not be ruled out, so that they may shift their own misdeeds on Shri Suryadeo Das. The charge-sheet is not specific and the same is vague therefore lenient view is required to be taken against the workman. In this context Hon'ble Supreme Court held in **Surath Chandra Chakravarty Vs The State of West Bengal [AIR 1971 SC 752]** that it is not permissible to hold an enquiry on a vague charge as the same does not give a clear picture to the delinquent to make an effective defence because he may not be aware as what is the allegation against him and what kind of defence he can put in rebuttal thereof.

33. As per judgement of Calcutta High Court 2014 LLR 1181 in CAJ -AST No. 134/2014 with A.A.S.T.A No. 98/2014 dt. 1.08.2014 in Asit Kr. Roy vs. Banglya Gramin Vikash Bank & ors. Gist given below:-

A. DISCIPLINARY PROCEEDINGS- when liable to be quashed- allegation against the appellant was of defalcation of money of the Bank -He was suspended-charge-sheet was issued-Disciplinary enquiry was initiated- Enquiry report with show cause notice was supplied to the appellant -without considering the comments of the appellant upon the finding of Enquiry Officer, he was removed from service by the disciplinary authority -writ petition filed against the order of the disciplinary authority failed- Appellant filed writ appeal- Division Bench observed that there is no evidence of defalcation of money- Punishment of removal from service is shockingly disproportionate – order of the disciplinary authority -Bank is directed to proceed with the proceeding de novo from the stage of reply by the appellant on the finding of the Enquiry Officer- Appeal stands disposed of accordingly.

B. PUNISHMENT- Justification of Disciplinary Authority did not give reasons as to how the finding of the Enquiry Officer is correct and proper- comments of the appellant –employee upon the finding of the Enquiry officer have not been considered by the disciplinary authority – punishment of removal from service is not justified if the same is imposed upon the employee without giving supporting reasons by the disciplinary authority .

33. Therefore it is held that the concerned workman is not guilty of the charges, therefore, the punishment of removal from service is set aside and the Bank management is directed to reinstate the concerned workman with continuity of service but without giving any back wages.

This is my award .

R. K. SARAN, Presiding Officer

नई दिल्ली, 16 फरवरी, 2018

का.आ. 358.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मुम्बई पोर्ट ट्रस्ट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ संख्या 7/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.02.2018 को प्राप्त हुआ था।

[सं. एल-31011/02/2014-आई आर (बी- II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 16th February, 2018

S.O. 358.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 7/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai as shown in the Annexure, in the Industrial Dispute between the management of Mumbai Port Trust, and their workmen, received by the Central Government on 16.02.2018.

[No. L-31011/02/2014-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT : M.V Deshpande, Presiding Officer

REFERENCE NO. CGIT-2/7 of 2015

EMPLOYERS IN RELATION TO THE MANAGEMENT OF MUMBAI PORT TRUST

The Chairman,
Mumbai Port Trust,
Port House, 2nd Floor,
S.V. Marg, Ballad Estate,
Mumbai-400 001.

AND

THEIR WORKMEN

The Secretary,
Mumbai Port Trust & Dock General
Employees'Union, Port Trust Kamgar Sadan,
Nawab Tank Road, Mazgaon,
Mumbai-400 010.

APPEARANCES:

FOR THE EMPLOYER : Mr. Umesh Nabar, Advocate

FOR THE WORKMEN : Mr. D.S Choudhary, Representative

Mumbai, dated the 15th December, 2017

AWARD

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour & Employment, New Delhi vide its order No. L-31011/02/2014- IR (B-II) dated 05.01.2015. The terms of reference given in the schedule are as follows:

'Whether the action of the management of Mumbai Port Trust in imposing a penalty of reduction of pay by 3 stages for a period of 3 years imposed on Sh. Dadabhau S. Chaudhary, Secretary Guard No. 1017 vide notice dated 18. 12. 2010 is just and legal ? What relief the workman is entitled to ?'

2. After the receipt of the reference, both the parties were served with the notices. Second Party union is present. He has filed the pursis dated 15. 12. 17 for disposing of the reference on the ground that since the second Party workman retired on account of superannuation in the month of May, 2017, he wants to withdraw the matter. He therefore prayed that the reference is to be disposed off in view of withdrawal of matter by the second party workman.

3. Other side has no objection. Accordingly I pass the following order.

ORDER

Reference is withdrawn and hence disposed off.

M.V. DESHPANDE, Presiding Officer

Date: 15.12. 2017

नई दिल्ली, 16 फरवरी, 2018

का.आ. 359.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मै. मर्यन फोरवर्डिंग कारपोरेशन के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ सं. 68/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.02.2018 को प्राप्त हुआ था।

[सं. एल-31012/1/2004-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 16th February, 2018

S.O. 359.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 68/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai as shown in the Annexure, in the Industrial Dispute between the management of M/s. Maryn Forwarding Corporation and their workman, received by the Central Government on 16.02.2018.

[No. L-31012/1/2004-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT : M. V. Deshpande, Presiding Officer

REFERENCE NO.CGIT-2/68 of 2005

EMPLOYERS IN RELATION TO THE MANAGEMENT OF M/s. MARYN FORWARDING CORPORATION

The Partner,
M/s. Maryn Forwarding Corporation
49/7, Eastern Chamber, Poona Street,
Masjid Bunder [East],
Mumbai – 400 009.

AND

THEIR WORKMEN

Shri Dagdu D. Gharge,
Shivshakti Seva Sangh,,
Near Gautam Nagar, Plot No.4,
Govandi,Mumbai – 400 043.

APPEARANCES:

FOR THE EMPLOYER : Mr. A.M. Koyande, Advocate

FOR THE WORKMEN : Mr. U.K. Nayar, Representative

Mumbai, dated the 14th December, 2017

AWARD

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour & Employment, New Delhi vide its order No. L-31012/1/2004 - IR (B-II) dated 04.05.2005. The terms of reference given in the schedule are as follows :

“Whether the action of the management of M/s. Maryn Forwarding Corporation Mumbai in terminating the services of Shri Dagdu D. Gharge w.e.f. 28.09.2002 is justified ? If not, what relief the workman Shri Dagdu D. Gharge is entitled?”

2. After the receipt of the reference, both the parties were served with the notices. They appeared through their respective representatives.

3. The concerned workman filed statement of claim Ex.8. According to the concerned workman, he has been working with first party management on permanent basis for several years. He became sick and he was unable to go to his service. He was under treatment w.e.f. 16.8.2002. On 18.1.2003 he went to resume duty along with medical certificate. However, the management did not allow him to resume duty. He therefore approached the office of RLC [C], Mumbai with a request to take up the matter for conciliation. Conciliation proceedings resulted in failure on account of adamant attitude of the first party management. Upon failure of the conciliation proceedings, the Central Government has referred the dispute to this tribunal for adjudication.

4. According to the concerned workman, his services came to be terminated by the first party management on the ground of misconduct. The first party management did not conduct the enquiry before terminating the services of second party workman. The first party management has violated the mandatory provisions of section 25 (F) of the I.D. Act, 1947 prior to the termination of the services. In the circumstances, the termination of his services is arbitrary, illegal, bad in law and in violation of principles of natural justice. He is therefore entitled to get reinstatement in employment of the first party management with full back wages and continuity of service w.e.f. 18.1.2003. He is therefore asking for declaration to the effect that the action of the first party management in terminating his services is illegal, bad in law and in violation of principles of natural justice and he be re-instated with full back wages and continuity of service w.e.f. 16.8.2002.

5. The first party management has resisted the claim by filing written statement Ex.22. It is the contention of the first party management that the second party was in habit of remaining unauthorisedly absent from duty from time to time. In the past he was issued show-cause notice on various occasions about its abrupt absence from duty which was also becoming habitual. On account of unauthorised absence from duty of the second party workman, grave inconvenience was caused to the company in handling its affairs and the same was also affecting the business of the company. On account of abrupt and habitual absenteeism on the part of second party, entire functioning of the first party was getting hampered.

6. It is also a case of the first party management that the concerned workman remained unauthorisedly absent w.e.f. 16.8.2003. The company sent oral intimation to him through co-employee advising him to report on duty. Despite repeated messages etc., second party did not report for duty therefore vide its letter dt. 28.11.2002, second party was called upon to report for duty immediately and in case on or before 9.12.02, failing which he was clearly told that appropriate disciplinary action would be taken against him which may even lead to termination of his services. The said letter was received by the second party. Despite the same he did not report for duty. Thereafter the first party sent another letter dt. 10.12.2002 once again advising him to report for duty failing which it was intimated that serious action including termination of the services would be taken against him but then also the second party did not report for duty. He was not at all interested in resuming on duty. Therefore the company was left with no other alternative but to terminate his services and accordingly his services came to be terminated vide company's letter dated 31.12.2002. The company vide its termination letter called upon the second party workman to come and collect its final dues. However, despite the said letter there was no communication from the second party and that he approached the company for the first time by making demand after 2 years.

7. According to the first party, company has duly complied with the provisions of law and therefore the second party is not entitled to any relief.

8. It is also a case of the first party management that on account of reduction of work there was substantial fall in the business of the company and the same started affecting the liquidity and profitability of the company. In May 2004, MbPT took over the prominent segment of work which adversely affected the revenue generation of the company. As a result of which the company was not in a position to provide work to its employees as also to pay the wages of the employees. The company was making consistent losses on account of fall in business and ultimately the work of the company came to total stand still w.e.f. 1.4.2005. With effect from 20.12.2005, company has declared closure of its establishment. Since the business of the company stands closed down w.e.f. 20.12.2005, there is no question of reinstatement of the second party workman. Under these circumstances, the first party has sought the rejection of the reference.

9. Following issues were framed at Ex.23. I reproduce the issues along with my findings thereon for the reasons to follow:

Sr. No.	Issues	Findings
1	Whether the action of the management of M/s. Maryn Forwarding Corporation, Mumbai in terminating the services of Shri Dagdu D. Gcharge, is justified ?	No
2.	If not whether workman Shri Dagdu D. Gcharge is entitled to be reinstated with full back wages?	As per final order
3.	what order	As per final order

Reasons

Issue No.1.

10. At the first blush, I would observe that the concerned workman has adduced his evidence by filing affidavit Ex.26. He was cross-examination by the advocate of the first party. Thereafter the first party has filed affidavit of Shaym Modi but he remained absent thereafter. He has not subjected himself for cross-examination as there was no cross-examination of management witness and therefore his evidence cannot be considered. As such there is no oral evidence on behalf of the management.

11. From the evidence of the concerned workman, it is clear that he was working with the first party management on permanent basis. It is also clear from the evidence that his services came to be terminated on the ground of misconduct. The misconduct as alleged by the first party is that the second party remained absent unauthorisedly from duty from 16.8.02 and therefore letters were issued to him advising him to resume the duty. But then he failed to resume the duty and therefore ultimately his services came to be terminated. On going through the termination order dated 31.12.2002, it appears that by way of this letter, second party workman was informed that he remained absent or on leave unauthorisedly and then he was asked to resume the duty on or before 9.12.2002. But since he did not report on duty, the company had no option but to terminate his service with immediate effect and called upon him to collect the dues.

12. On going through this letter of termination, it clearly appears that though the termination was on the ground of misconduct i.e. on the ground of absenteeism and misconduct of the concerned workman to the effect that he remained absent though he was advised to remain present and resume duty on or before 9.12.2002. If the termination is on the ground of misconduct then it is well settled that the departmental enquiry should have been held before terminating the services of the concerned workman. Since no departmental enquiry is held in respect of alleged misconduct of the concerned workman, on that ground itself his termination is illegal.

13. Realising this difficulty in the written statement itself the first party has contended that if company ought to have conducted the domestic enquiry before terminating the services of the concerned workman, the company crave leave of the tribunal to lead evidence to justify its action of termination of services. But the first party has not adduced any evidence oral or documentary to justify its action of termination of services of the concerned workman.

14. So far evidence of the concerned workman, he states in his affidavit that he went to resume the duty along with medical certificate dated 18.1.2003 but the management did not allow him to resume the duty. His evidence in the context remains unshaken since there is no cross-examination directed against him in this respect. On the contrary his cross-examination makes it clear that he was sick and was unable to attend the duty and therefore he has produced the medical certificate. To negate his contention it was expected of the first party to adduce oral or documentary evidence to show that no such certificate was produced by him and to conduct the enquiry as regards the misconduct to show that he remained absent on duty willfully without any good reason.

15. As seen earlier no charge sheet was issued to him in respect of alleged misconduct of absenteeism. No enquiry was conducted in that respect though all the way it is the contention of the first party that the charge was in respect of his absenteeism for the period from 1998 to 2002 and several letters were issued to him advising him to remain present on

duty. Such charge if any has not been established by the first party management and therefore the action of termination of the second party by first party is illegal rather it is in violation of the principles of natural justice.

16. Realising this difficulty, the Learned Counsel for the first party submitted that there was settlement in between union and company and since there was no work from 1.8.2000, the company was not able to pay wages to the workmen. In short the submission is that the termination was due to closure due to loss caused to the company since work was reduced.

17. In this respect, it can be seen that the company was closed in 2005. Termination of the concerned workman was much prior to that i.e. in the year 2002 and as such there can be no termination of the services of the concerned workman on the ground of the closure of the company. The fact remains that without holding departmental enquiry and without proving any charge of alleged misconduct of the concerned workman the termination of his services is illegal and bad in law. Issue No. 1 is therefore answered accordingly as indicated against it.

Issue Nos. 2 & 3.

18. In this respect, the Learned Counsel for the first party submitted that the functioning of the first party was closed in 2005 and therefore there is no question of reinstatement of the concerned workman. It is admitted position that at present the company is not at all functioning therefore the question of reinstatement does not arise. Looking to the facts and circumstances of the case and as the first party company is closed after the termination of the second party workman, there is no point in directing the reinstatement of the workman. In the circumstances to meet the ends of justice, I think it proper to direct the first party to pay compensation to the second party workman to the tune of Rs. One lakh. Accordingly, I decide the Issue No.2 to the effect that the concerned workman is not entitled to be reinstated but he is entitled to the relief by way of compensation. Hence I proceed to pass the following order.

ORDER

1. The reference is partly allowed with no order as to costs.
2. Action of the first party management in terminating the services of Shri Dagdu D. Ghave is declared illegal and unjustified.
3. The first party management is directed to pay the compensation to the workman to the tune of Rs.1 lakh for illegal termination of his services.

M.V. DESHPANDE, Presiding Officer

Date: 14.12.2017

नई दिल्ली, 16 फरवरी, 2018

का.आ. 360.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मै. मर्यन फोरवर्डिंग कारपोरेशन के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ सं. 73/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.02.2018 को प्राप्त हुआ था।

[सं. एल-31011/1/2005-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 16th February, 2018

S.O. 360.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 73/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai as shown in the Annexure, in the Industrial Dispute between the management of M/s. Maryn Forwarding Corporation and their workman, received by the Central Government on 16.02.2018.

[No. L-31011/1/2005-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT : M. V. Deshpande, Presiding Officer

REFERENCE NO. CGIT-2/73 of 2005

**EMPLOYERS IN RELATION TO THE MANAGEMENT OF
M/s. MARYN FORWARDING CORPORATION**

The Partner,
 M/s. Maryn Forwarding Corporation
 49/7, Eastern Chamber, Poona Street,
 Masjid Bunder [East],
 Mumbai – 400 009.

AND
THEIR WORKMEN

Shri Gulab Singh Balam Singh Rawat,
 Room No.2, Rajaram Yadav,
 Utkarsh Nagar, Tembipada Road,
 Bhandup [W],
 Mumbai – 400 078.

APPEARANCES:

FOR THE EMPLOYER : Mr. A.M. Koyande, Advocate

FOR THE WORKMEN : Mr. U.K. Nayar, Representative

Mumbai, dated the 22nd December, 2017

AWARD

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour & Employment, New Delhi vide its order No. L-31012/1/2004 - IR (B-II) dated 04.05.2005. The terms of reference given in the schedule are as follows :

“Whether the action of the management of M/s. Maryn Forwarding Corporation Mumbai in terminating the services of Shri Gulab Singh Balam Singh Rawat w.e.f. 2.07.2004 is justified ? If not, what relief the workman Shri Gulab Singh Balam Singh Rawat is entitled to ?”

2. After the receipt of the reference, both the parties were served with the notices. They appeared through their respective representatives.

3. The concerned workman filed statement of claim Ex.5. According to the concerned workman, he has been working with first party management as a Driver on permanent basis w.e.f. 1.11.1998. As usual he went to resume the duty on 2.7.2007 but the first party did not allow him to resume the duty without any notice and without any reason. The management has not issued any letter nor conducted any enquiry before removing him from service. Therefore the action of the management is illegal, improper, bad in law and in violation of principles of natural justice. He is therefore asking for reinstatement with full back and continuity of service.

4. The first party management has resisted the claim by filing written statement Ex.15. It is the case of the first party management that in 1996 – 97 company started experiencing downward trend in the business volume that is why the number of container handled monthly. The situation was aggravated further on account of shifting of some of work of Bombay Port Trust to Nava Sheva Port on account of reduction of work there was substantial fall in the business of the company and the same started affecting liquidity and profitability of the company. As a result of which the company was not in a position to provide work to the employee as also to pay the wages to the employees. The company discussed the matter with the union namely Transport & Dock Workers Union and after discussion between the company and the union settlement was arrived at, where under it was decided that the permanent workers on the muster roll will be listed category-wise to decide the surplus workers and to decide about the workers to be reinstated. The list was prepared and finalized by the union itself. The union also gave the list of workers and Supervisors whose services would be terminated as they are rendered surplus. The lists were displayed on the notice board of the company. The name of the second party workman was appearing in Ann. – B of the said settlement which list-out the names of the Supervisors to be retrenched. Second party was the member of the union and therefore the said settlement was fully binding on him. As agreed under the settlement the company terminated the services of the employees whose names were given in Ann. – B including the second party workman. As such the second party workman was terminated by way of retrenchment and not by way of punishment therefore the question of holding any enquiry etc. does not arise.

5. It is also a case of the first party management that it has declared closure of its establishment w.e.f. 20.12.2005 and notices in this regard have been sent to all the parties. The closure has become final and therefore the second party workman is not entitled to any reliefs prayed for. It has thus sought rejection of the reference.

6. Following issues were framed at Ex.19. I reproduce the issues along with my findings thereon for the reasons to follow:

Sr. No.	Issues	Findings
1	Whether the action of the management of M/s. Maryn Forwarding Corporation, Mumbai in terminating the services of Shri Gulab Singh Balam Singh Rawat, is justified ?	No
2.	If not whether workman Shri Gulab Singh Balam Singh Rawat is entitled to be reinstated with full back wages?	As per final order
3.	what order	As per final order

Reasons

Issue No.1.

7. At the outset, it has stated that second party workman has filed affidavit Ex.21 and also subjected himself for cross-examination. As against this, the first party has filed affidavit of Shaym Modi but he has not subjected himself for cross examination. He remained absent and was cross-examined by the second party workman. Therefore his evidence cannot be taken into consideration. As such there is no evidence on behalf of the first party to substantiate its contentions.

8. So far contentions go, it is the contention of the second party that he was in employment with first party since from 1.11.1998 till 2.7.2007. On 2.7.2007, he was not allowed to resume duty without any reason and no prior notice was even given to him. Admittedly, he was the member of Transport & Dock Workers' Union. He also admits that the work of the company was reduced to a great extent but then he categorically denied that there was no work for the workers at BPT. He does not know about any settlement in between the management and the union and list of the workers prepared in view of that settlement. It clearly appears from his evidence that he was not even given prior notice prior to his retrenchment explaining therein as to how his services came to be terminated abruptly without any good reason.

9. Even assuming for the sake of argument that his services came to be retrenched on the ground that the company was not in a position to give the work and he was surplus then also it was expected of the first party to hold enquiry. No such enquiry was held nor compensation was paid to the concerned workman before his services came to be terminated. Even the first party has not adduced any evidence oral or documentary to justify its action of termination of services of the concerned workman.

10. As seen earlier no charge sheet was issued to the concerned workman. No enquiry was conducted. No any compensation was paid to him. Therefore the action of termination of the second party by the first party is illegal rather it is in violation of principles of natural justice.

11. Realising this difficulty, the Learned Counsel for the first party submitted that there was settlement in between union and company and since there was no work from 1.8.2000, the company was not able to pay wages to the workmen. In short the submission is that the termination was due to closure due to loss caused to the company since work was reduced.

12. The fact remain that without holding the departmental enquiry his services came to be terminated and therefore termination of the services of the concerned workman is illegal, bad in law and in violation of principles of natural justice. Issue No.1 is therefore answered accordingly as indicated against it.

Issue No.2 & 3.

13. In this respect, the Learned Counsel for the first party submitted that the functioning of the first party was closed in 2005 and therefore there is no question of reinstatement of the concerned workman. It is admitted position that at present the company is not at all functioning therefore the question of reinstatement does not arise. Looking to the facts and circumstances of the case and as the first party company is closed after the termination of the second party workman, there is no point in directing the reinstatement of the workman. In the circumstances to meet the ends of justice, I think it proper to direct the first party to pay compensation to the second party workman to the tune of Rs. One lakh. Accordingly, I decide the Issue No.2 to the effect that the concerned workman is not entitled to be reinstated but he is entitled to the relief by way of compensation. Hence I proceed to pass the following order.

ORDER

1. The reference is partly allowed with no order as to costs.
2. Action of the first party management in terminating the services of Shri Gulab Singh Balam Singh Rawat is declared illegal and unjustified.
3. The first party management is directed to pay the compensation to the workman to the tune of Rs.1 lakh for illegal termination of his services.

M. V. DESHPANDE, Presiding Officer

Date: 22.12.2017

नई दिल्ली, 16 फरवरी, 2018

का.आ. 361.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मै. मर्यन फोरवर्डिंग कारपोरेशन के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ सं. 69/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.02.2018 को प्राप्त हुआ था।

[सं. एल-31012/2/2004-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 16th February, 2018

S.O. 361.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 69/2005) of the Central Government Industrial Tribunal-cum-Labour Court 2, Mumbai as shown in the Annexure, in the Industrial Dispute between the management of M/s. Maryn Forwarding Corporation and their workman, which was received by the Central Government on 16.02.2018.

[No. L-31012/2/2004-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI****PRESENT :** M. V. DESHPANDE, Presiding Officer**REFERENCE NO. CGIT-2/69 of 2005****EMPLOYERS IN RELATION TO THE MANAGEMENT OF
M/s. MARYN FORWARDING CORPORATION**

The Partner,
M/s. Maryn Forwarding Corporation
49/7, Eastern Chamber, Poona Street,
Masjid Bunder [East],
Mumbai – 400 009.

AND**THEIR WORKMEN**

Shri Jagdish Singh Negi,
Salman Singh Chawl,
Room No.29, G.M. Road,
Bhandup [West], Mumbai
Mumbai – 400 078.

APPEARANCES:

FOR THE EMPLOYER : Mr. A.M. Koyande, Representative

FOR THE WORKMEN : Mr. M.V. Patekar & Ms. A. S. Talekar, Advocates

Mumbai, dated the 15th December, 2017**AWARD**

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour & Employment, New Delhi vide its order No. L-31012/2/2004 - IR (B-II) dated 04.05.2005. The terms of reference given in the schedule are as follows :

“Whether the action of the management of M/s. Maryn Forwarding Corporation Mumbai in terminating the services of Shri Jagdish Singh Negi, Forklift Operator w.e.f. 15.09.2000 is justified ? If not, what relief the workman Shri Jagdish Singh Negi is entitled ?”

2. After the receipt of the reference, both the parties were served with the notices. They appeared through their respective representatives.

3. The concerned workman filed statement of claim Ex.6. According to the concerned workman, he was working with first party management as Forklift Operator on the permanent basis for several years prior to alleged termination of his service on 15.9.2000. There was dispute between the workmen employed by the first party with regard to non-deposit of PF and ESI contributions which were deducted from the wages of the concerned employees with the concerned authorities. All the workmen of the establishments have approached the first party in this regard. The first party has turned a deaf ear to the workmen. Inspite of their repeated complaints for not depositing the PF & ESI contributions deducted from their wages, the first party has hired outside vehicles for doing the job of transportation which the workmen were doing. Therefore all the workmen jointly decided to prevent outside vehicles. On 22.7.2000 the decision of stopping the outside vehicles was taken unanimously by all the workmen and the second party workman was only one among them. the first party suspended the second party workman from work on 22.7.2000. The management has taken action only against the second party workman and all other employees are permitted to report their duties from 24.7.2000. Show cause notice was issued to the concerned workman alleging that the second party workman has prevented all the workmen in performing their duties and sought his explanation within 24 hours from the receipt thereof. The second party has furnished his detailed explanation to the management. However, the management has not responded to the said matter and arbitrarily terminated the services of the second party on 15.9.2000.

4. According to the concerned workman, the first party management did not conduct the enquiry before terminating the services of second party workman. The first party management has violated the mandatory provisions of section 25 (F) of the I.D. Act, 1947 prior to the termination of the services. In the circumstances, the termination of his services is arbitrary, illegal, bad in law and in violation of principles of natural justice.

5. It is also a case of the second party workman that he thereafter submitted letter to the first party on 12.4.2004 demanding reinstatement. There was no response to his application for about three weeks. He therefore approached the office of RLC [C], Mumbai by justification statement dated 7.5.2004 requesting him to intervene in the matter. Conciliation proceedings held by ALC [C] which resulted in failure on account of adamant attitude of first party. Upon failure of the conciliation proceedings, the Central Government has referred the dispute to this tribunal for adjudication.

6. It is also a case of the second party workman that his services came to be terminated on the ground of misconduct without holding an enquiry as such the first party has violated the mandatory provisions of section 25 F of I.D. Act, 1947 therefore the termination of his services by letter dated 15.9.2000, is arbitrary, illegal, bad in law and in violation of principles of natural justice. He is therefore asking for declaration to the effect that the action of the first party management in terminating his services is illegal, bad in law and in violation of principles of natural justice and he be re-instated with full back wages and continuity of service and all other consequential benefits.

7. The first party management has resisted the claim by filing written statement Ex.22. It is the contention of the first party management that the second party was taken in the employment of first party by virtue of agreement. The first party has signed with Transport and Dock Workers Union, an agreement. As such the second party was working as Forklift Operator and PF and ESI contributions would not deposited on time on account of business crises.

8. It is a case of the first party that 27.7.2000 onwards, second party instigated the other employees not to work and also prevented other employees from performing their normal duties. He threatened them of dire consequences as a result of which the said workmen could not perform their work. The second party with its act sabotaged the routine work and business of the company. As a result of this, huge monetary loss was caused to the first party and the said act of second party also damaged the reputation of the company. Therefore, company was left with no other option but to suspend him from duty and accordingly he was suspended with immediate effect.

9. It is also a case of the first party that on various occasions the second party was warned by the first party from time to time. He was also issued show cause notice for such activities but then the second party continued to disrupting harmony amongst the employees which lead to no work from 1.8.2000. The company was compelled to make the complaint to the police regarding illegal activities resorted to by the employees. Despite of the efforts made by the company to bring out normalcy due to illegal acts of the second party, no normalcy could be restored. As a result the company used to suffer huge financial losses. Therefore the company was left with no alternative but to terminate the services of second party and accordingly the company vide its letter dated 15.9.2000 terminated the services of the second party for the reasons mentioned therein. As such the company has not committed the breach of mandatory provisions of section 25 F of I.D. Act, 1947 and the terminating the services of the second party is legal and valid.

10. It is also a case of the first party that since about 1996-97 the company started experiencing downward trend in the business volume. On account of reduction of work there was substantial fall in the business of the company. As a result of which the company was not in a position to provide work to its employees as also to pay the wages to the employees. With effect from 1.4.2005 the work of company came to total stand still. On 20.12.2005 it has declared

closure of its establishment. Under these circumstances, the second party is not entitled to any relief. It has thus sought the rejection of the reference.

11. Following issues were framed at Ex.23. I reproduce the issues along with my findings thereon for the reasons to follow:

Sr. No.	Issues	Findings
1	Whether the action of the management of M/s. Maryn Forwarding Corporation, Mumbai in terminating the services of Shri Jagdish Singh Negi, is justified ?	No
2.	If not whether workman Shri Jagdish Singh Negi is entitled to be reinstated with full back wages?	As per final order
3.	what order	As per final order

Reasons

Issue No.1.

10. At the first blush, I would observe that the concerned workman has adduced his evidence by filing affidavit Ex.25. He was cross-examined by the advocate of the first party. Thereafter the first party has filed affidavit of Shaym Modi but he remained absent thereafter. He has not subjected himself for cross examination. As there was no cross examination of management witness and therefore his evidence cannot be considered. As such there is no oral evidence on behalf of the management.

11. From the evidence of the concerned workman, it is clear that he was working with the first party management on permanent basis. It is also clear from the evidence that his services came to be terminated on the ground of that he prevented all the workmen in performing their duties. The misconduct as alleged by the first party is that on account of dispute in respect of non-depositing the PF & ESI contributions deducted from the wages the management has hired outside vehicles for doing the job of transportation and that time the concerned workman took leading role and prevented other outside vehicles on 22.7.2000. On that ground he was suspended and then it is alleged that inspite of show cause notice and warnings, second party continued to disrupt the business of the management which resulted in heavy losses caused to the management. On account of these activities of the concerned workman there was no other option for the first party but to terminate his services.

12. But then the fact remains that the first party has not conducted any enquiry as regards alleged misconduct of the second party workman. No charge sheet was issued. No Enquiry officer was appointed and no enquiry was conducted by giving opportunity to the concerned workman to defend himself or to disprove the charge and therefore it can be said that before terminating the services of the concerned workman the principles of natural justice have not been followed. On this ground itself his termination can be said to be illegal and without following the principles of natural justice.

13. Realising this difficulty the first party in his written statement has stated that the first party crave leave of the court to give opportunity to it to prove and justify its action of termination of services and produce such evidence as may be necessary both oral as well as documentary in support of justification and since the company reserves its right to justify its action in the court of law, there is no question of holding any enquiry. But the first party has not adduced any evidence oral or documentary to justify his action. No enquiry was held and as such there is no evidence before this tribunal on behalf of the first party to support or justify its action and to prove the alleged misconduct of the second party. In view of that also the action of first party in terminating the services of the concerned workman is illegal, bad in law and in violation of principles of natural justice. It clearly appears that first party has not complied with the provisions of section 25 F of I.D. Act, 1947. The first party has violated the mandatory provisions of I.D. Act, 1947 and therefore action of the management is in violations of principles of natural justice.

14. Realising this difficulty, the Learned Counsel for the first party submitted that there was settlement in between union and company and since there was no work from 1.8.2000, the company was not able to pay wages to the workmen. In short the submission is that the termination was due to closure due to loss caused to the company since work was reduced.

15. In this respect, it can be seen that the company was closed in 2005. Termination of the concerned workman was much prior to that i.e. in the year 2000 and as such there can be no termination of the services of the concerned workman on the ground of the closure of the company. The fact remains that without holding departmental enquiry and without proving any charge of alleged misconduct of the concerned workman the termination of his services is illegal and bad in law. Issue No. 1 is therefore answered accordingly as indicated against it.

Issue No.2 & 3.

16. In this respect, the Learned Counsel for the first party submitted that the functioning of the first party was closed in 2005 and therefore there is no question of reinstatement of the concerned workman. It is admitted position that at present the company is not at all functioning therefore the question of reinstatement does not arise. Looking to the facts

and circumstances of the case and as the first party company is closed after the termination of the second party workman, there is no point in directing the reinstatement of the workman. In the circumstances to meet the ends of justice, I think it proper to direct the first party to pay compensation to the second party workman to the tune of Rs. One lakh. Accordingly, I decide the Issue No.2 to the effect that the concerned workman is not entitled to be reinstated but he is entitled to the relief by way of compensation. Hence I proceed to pass the following order.

ORDER

1. The reference is partly allowed with no order as to costs.
2. Action of the first party management in terminating the services of Shri Jagdish Singh Negi is declared illegal and unjustified.
3. The first party management is directed to pay the compensation to the workman to the tune of Rs.1 lakh for illegal termination of his services.

M.V. DESHPANDE, Presiding Officer

Date: 15.12.2017

नई दिल्ली, 19 फरवरी, 2018

का.आ. 362.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मेसर्स फ़ूड कारपोरेशन ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/सह-श्रम न्यायालय-1, धनबाद, के पंचाट (संदर्भ सं. 138/97 शिकायत नंबर 03/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.02.2018 को प्राप्त हुआ था।

[सं. एल-22012/170/1996-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 19th February, 2018

S.O. 362.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. ID No. 138/97 against Comp. No. 3/2013) of the Central Government Industrial Tribunal-cum-Labour Court-1, Dhanbad, as shown in the Annexure, in the Industrial Dispute between the management of M/s. Food Corporation of India and their workman, received by the Central Government on 09.02.2018.

[No. L-22012/170/1996-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 1), DHANBAD

IN THE MATTER OF A COMPLAINT U/S 33(A) OF I.D ACT, 1947

COMPLAINT NO.3 of 2013

(Arising out of Ref.No.138/97)

Ministry order no. 22012/170/96-IR(C-II)

Upendra Prasad , Ex-Assistant Grade I (D), FCI,
presently residing at South of Jonshan paint,
Pahari Road Agamkuan Patna – 7

...Complainant

Versus

Executive Director, (East)
Food Corporation of India
10-A, Middleton Row Kolkata –71

...Opposite party

Present : Sri Ranjan Kumar Saran, Presiding Officer

Appearances

For complainants : Sri Vijayendra Kumar, Authorised representative

For opposite party : Sri O P Singh, DGM (Vig), FCI, Patna.

State - Bihar

Industry : Food

Dated.15/01/2018

AWARD

2. The instant complaint is filed directly by the complainant under Sec.33 A of the ID Act against the order of dismissal (Exhibit W-7) dated 30.11.2012 and forfeiture of terminal benefits including gratuity of the complainant without taking approval of this Tribunal in gross violation of Sec 33 (2)(b) of the ID Act during the pendency of reference no 138/97.

3. According to the complainant a reference no 138/97 was pending before this Tribunal since 1997 in respect of all the workmen posted in Bihar region regarding denial of payment of OTA at double the rate and the complainant is concerned with the pending dispute and after passing the order of dismissal it was mandatory on the part of the Opp.Party to take approval of the dismissal besides payment of one month salary as provided under Sec.33(2) (b) of the ID Act but the OP has not filed any petition for approval before this Tribunal and salary of one month was also not paid to the complainant. Notice to the appropriate government was also not given and all the pre- condition as provided under Sec 33 (2)(b) was violated by the Opp.Party.

4. The complainant was appointed as Assistant. Grade III (D) on 16.01.1978 and was promoted to the post of Assistant Grade II (D) and Assistant Grade I (D) w.e.f 12.12.1995 and 14.02.2005 respectively.

5. That during the year 2009 complainant was posted at FCI, DO Patna. The complainant along with J P Chaudhary was ordered by Area Manager FCI Patna to proceed on tour to PPC Dumraon vide order dated 25.09.2009 (Exhibit W-1) to conduct quarterly PV as on 30.09.2009. After completion of PV, final report was submitted by the committee to the Area Manager FCI Patna who accepted the report and approved their stay at PPC Dumaraon for the aforesaid work and also paid their TA bill.

6. Competent authority to pass the TA bill was Area Manager FCI Patna by whom they were deputed to PPC Dumroan. The Area Manager after considering their assignment accepted their report and approved their TA bill as such no other authority will raise any finger after two years about the report of the committee member at PPC Dumraon but all of a sudden the complainant along with others were charge-sheeted on 19.07.2011 under regulation 58 of FCI Staff regulation 1971 and one Sri S K Mondal was appointed as inquiry officer but when the enquiry was at advance stage the inquiry officer was suddenly changed and Narhari Babu DGM (L) was appointed as IO in place of Sri Mondal.

7. It is further case of the complaints that 08 PWs were examined and cross examined during domestic inquiry and documents on behalf of both the parties were exhibited with the consent of the parties and was testified by the PWs. The evidence of most PWs was in favour of the complainant and against the prosecution. The document filed on behalf of the workman was sufficient to establish the innocence of the complainant. Any prudent and judicious person shall certainly hold that Opp.Party is miserably failed to prove the charges against the complainant but the IO has given report holding that charges are proved against the complainant which was against the evidence and documents available on record and the order of dismissal from service with forfeiture of gratuity and other post retirement benefits was awarded against the complainant which is completely illegal and unjustified hence this complaint petition is filed by the complainant under Sec 33A of the ID Act for violation of Sec 33 (2)(b) of the said Act.

8. Notice was issued. W/S and petition for deciding preliminary objection was filed by the Opp.Party. Documents by both the parties was also filed but evidence was not adduced by the Opp.Party and ultimately the case was heard on technical point and award dated 01.01.2013 was passed which was challenged by the Opp.Party before Hon'ble High Court Ranchi and the Hon'ble Court after hearing remanded the case for hearing afresh after giving chance to the Opp.Party to adduce evidence.

9. The fairness of the inquiry was then challenged by the complainant and it was placed for evidence by the Opp.Party to prove fairness of the inquiry as preliminary point. One witness was examined on the point of fairness by the Opp.Party but he was neither the IO nor PO or any PW and he was not able to prove the fairness of the inquiry. No other witness was examined on this point by the Opp.Party. One witness was also examined by workman who in detail has proved that inquiry was not fair and also the report of the IO was not based on evidence or documents and same is perverse. Complainant has also proved that no proper opportunity was given to him and the IO was changed in the advance stage of the inquiry without any complaint of the complainant and it was also not proper. Other ground was also raised and ultimately after hearing the inquiry was held unfair and improper and Opp.Party was directed to adduce evidence afresh on merit to prove the misconduct against the complainant before this Tribunal.

10. The Opp.Party has examined two witnesses on merit and filed document which has been marked exhibit M-1 to M-11. The complainant has also examined 1 witness on merit and filed 19 items of documents which has been marked as W-1 to W-19.

11. During argument it was also submitted on behalf of the complainant that OP has passed the order of punishment as per his sweet will as for same and similar alleged misconduct this complainant is punished with dismissal and forfeiture of all retirement benefit including gratuity but in other case the person who has conducted PV after six months of the

complainant was awarded a much lesser punishment of reduction of two increment only which is minor punishment. The memorandum issued in respect of Lakshman Ram Manager, Mukul Kumar AG I (D), and Sadanand Prasad Compounder on 13.06.2011 is completely same but the punishment is too lessor as such it is prayed by the complainant that the Opp.Party has discriminated the complainant in passing the order of punishment and therefore, prayed that the complainant is also entitled to get the benefit as given to Lakshman Ram and others. It was also submitted that appeal filed by the complainant was also rejected in casual manner.

12. As per WS the case of the Opp.Party is that this Tribunal has got no jurisdiction to adjudicate to instant complaint petition as the complainant is not the workman and he has been punished under staff Regulation after holding domestic inquiry. It is further case of the Opp.Party that the dismissal is not connected to the pending dispute and the complainant is not concerned with the pending dispute as such there is no need to take any permission before passing the order of punishment or approval after the action taken and on the aforesaid ground it is prayed by the Opp.Party to dismiss the complaint petition. It is further case of the Opp.Party that misconduct is very serious in nature and punishment of dismissal is justified.

13. From the close analysis of the WS, evidence and pleadings of the parties the following points are necessary for adjudication-

- I. Whether the complainant is workman under ID Act?
- II. Whether the instant complaint is maintainable and compliance of Section 33 of ID Act was mandatory on the part of the OP?
- III Whether the order of dismissal with forfeiture of gratuity and other Post- retirement benefits passed against the complainant is discriminatory and arbitrary?
- IV Whether the judgement passed by the Hon'ble Patna High Court in Case of Sri Jayant Kumar is applicable in the instant case?
- V. Whether Opp.Party is able to prove the charges against the complainant as Mentioned in the charge sheet and penalty of dismissal with forfeiture of post-retirement benefit including gratuity is legal and justified ?

Point No.1

It is an admitted fact that complainant was appointed as Assistant Grade III (D) and thereafter he was promoted to the post of Assistant Grade II (D) and Assistant Grade I (D). It is also an admitted fact that Assistant Grade I (D) is category III post in the food Corporation of India and he is not having any power of his own. He has to act as per order of the Area Manager He is not having administrative, supervisory or managerial power. He cannot take independent decision. His work is to maintain daily receipt and issue register of foodgrain and infact he is mere a clerk. There are different types of assistant grade I, II & III. In general cadre they are called Assistant Grade I (General), in QC cadre they are called Technical Assistant,in account cadre they are called Assistant Grade I (A/C) and if they are posted in Regional Office, District Office, Zonal Office and Head quarter then they are called dealing Assistant. In FCI departmental labourers are getting salary & allowance more than 1 lac per month which is almost double the salary of the workman complainant but merely getting more pay labourers shall not be treated supervisor or Manager as such they are still the workman. Quantum of salary is not a sole criterion until & unless they are having supervisory and Managerial powers. Complainant is also not having supervisory or managerial power & putting his attendance in register ,therefore, he is mere a clerk as such it is held that complainant being as Assistant Gr. I (D) is workman under section 2(s) of the ID Act. The Hon'ble Patna High Court has also held that Assistant Grade I(D) of FCI is a workman in a judgement reported in 2014- IV/ LLJ 715.

Point No. 2:-

As per Sec 33 of the ID Act there is clear provision that service condition shall not be altered during the pendency of dispute. In this case a reference no 138/1997 was pending before this Tribunal over denial of OTA at double the rate since 1984 in respect of entire workmen of Bihar State. Admittedly the complainant is workman and during relevant time he was getting OTA and they will also get OTA at enhanced rate as the case has already been decided in favour of the workman, therefore, they are concerned with the reference as such compliance of Sec. 33 of the ID Act was mandatory on the part of the Management. But they have not complied with the provision. It is not under dispute that the punishment of Dismissal was not directly connected to the term of reference of the said dispute even then compliance of provisions of Sec 33 (2) (b) was necessary on the part of the Opp.Party. The Opp.Party was duty bound to obtain approval of the action taken besides payment of one month salary and intimation to the appropriate government but none of the pre-condition was complied by the Opp.Party, therefore, certainly there is violation of Sec 33 (2) (b) of the ID Act 1947 and for any such violation there is an express provision made under Section 33 A of the ID Act to file a complaint to the authority with whom the said dispute is pending and accordingly the complainant has filed the said complaint before this Tribunal and as per provision the said complaint has to be adjudicated as a full -fledged reference ,therefore, it is held that the instant complaint petition is legally maintainable and compliance of Sec. 33 (2)(b) was mandatory on the part of the Opp.Party.

Point no.3:-

It is manifestly clear from the perusal of charge sheet dated 19.07.2011 of the complainant and dated 13.06.2011 of Lakshman Ram & others that both the charge sheet is replica of each other. The listed documents and witnesses are same and the quantum of alleged loss is also the same. There is only difference of name and date of PV. The complainant was deputed to conduct quarterly PV as on 30.09.2009 and Lakshman Ram and other are deputed to conduct the quarterly PV on 31.03.2010. In both the cases charges are proved by the inquiry officer and on the basis of inquiry report the complainant was dismissed from service w.e.f 30.11.2012 besides forfeiture of gratuity and all other retirement benefits whereas Sri Lakshman Ram, Sadanand Prasad and Mukul Prasad were punished on 06.03.2013 with reduction of two increment only for same and similar misconduct which is clear cut discrimination on the part of the OP and this ground alone the punishment of dismissal with forfeiture of gratuity and other retirement benefits shall not be allowed to continue any further as the same is illegal & unjustified.

Point No. 4

One case in respect of other employee of the corporation fact of which is almost identical to the instant case has also been decided by the Hon'ble Patna High Court on 05.08.2014 in CWJC no 2945 of 2014 (Exhibit W- 8) is referred by the complainant. In the above case also a committee was constituted for specific purpose but they have also been dismissed by the corporation for delay of one month in submission of report and alleged conspiracy with depot incharge PPC Dumraon. Summary of the charges are same. Three employee were dismissed out of one directly filed a writ petition in Honble Patna High Court and a complaint under ID act was filed by other two employee. The Hon'ble High Court was pleased to allow the writ petition and quash the order of dismissal as well as order of appellate and reviewing authority vide judgement dated 05.08.2014 and ordered his re-instatement with full back wages and other benefits. In para 13 and 14 of the judgement the Hon'ble court has defined the misconduct.

“13. Misconduct has been defined by the courts to be an act of involving moral turpitude or improper or wrong or unlawful behaviour which is wilful in character or a forbidden act, a transgression of established and definite rule of action or code of conduct but not mere error of judgement or carelessness or negligence in performance of the duty. It has been held that the act complained of must bear a forbidden quality character and its ambit has to be construed with reference to the subject matter and the context wherein the term ... Reference may be made in this regard to the Supreme Court judgements reported in (1992) 4 SCC 54(State of Punjab vs. Ram Singh Ex- Constable) , (1999) 7 SCC 409 (Zunjarran Bhikhaji Nagarkar vs. Union of India) and (2007) 4 SCC 566(Inspector Premchand vs. Govt. of N.C.T. of Delhi)

14. The charges levelled and finally sustained by the enquiry officer, in my opinion, do not constitute misconduct against the petitioner. At the maximum it can be said to be an act of error of judgement, negligence or carelessness on the part of the petitioner...

14. Against the above judgement of single judge FCI filed LPA no 1289 of 2014 and after hearing at length the Division bench of the Hon'ble court has confirmed the findings of single judge and allowed the LPA partly vide order dated 29.06.2015 (Ext. W-9) and ordered that for delay of one month in submission of report minor punishment in form of withholding two increment would meet the end of justice but FCI again challenged the said order before the Apex court in Special Leave to Appeal (c) no 22573 of 2015. But the Hon'ble Apex court has also confirmed the findings of Single judge by order dated 17.08. 2015 (Ext. W-10) and remitted the case to the disciplinary authority for decision to pass any minor punishment within one month and accordingly two increment was withheld by the management without cumulative effect and the petitioner was reinstated in his job with all his benefits. Case of other two employees in whose favour order of reinstatement was passed by this Tribunal which was under challenge before Hon'ble Jharkhand Court has also been disposed of as per order passed by Hon'ble Jharkhand High Court on 05.01.2017 in WPL 2488/2015 and accordingly all the three employees dismissed on similar charges has been reinstated and paid their full back wages and other benefits. The aforesaid judgement is also applicable in the case of present complainant and he is also entitle for his re-instatement with full back wages and post-retirement benefits including gratuity but on the similar term.

Point No. 5

Now the charges against the complainant on the basis of which he has been dismissed from the service of the corporation has to be examined. The chargesheet is exhibit W-3 dated 19.07.2011. The charges as mentioned in annexure -1 is being quoted for its better appreciation:-

Annexure – I

‘S/Sri J. P. Chaudhary, Manager (D) & Upendra Prasad, AG I (D) while posted under District Office Patna have failed to maintain absolute integrity and devotion to duty in as much as that in a brazen departure from the laid down procedure of conducting quarterly PV as on 30.09.2009 in respect of PPC, Dumraon, they wilfully and in connivance with PPC in charge Dumraon Shri U K Dubey, AG I (D) carried out PV only on paper as per declaration given by Sri U K Dubey instead of verifying of the physical availability of stock in godowns, The consequences of the same was found detrimental to the interest of the corporation as Sri Dubey succeeded to misappropriate the stock to the tune of 74839

bags= 39636.43.356 Qtls of rice, 4600 bags= 2957.51.147 qtls of wheat and 1609 bags = 529.72.000 of wheat dust worth Rs. 8,80,44,029.00(Eight crore eighty lac forty four thousand twenty nine) only.

S/Sri J. P. Chaudhary, Manager (Depot) & Upendra Prasad, AG I (D) acted in a manner unbecoming of a corporation employee and thereby made themselves liable for disciplinary action for contravening Regulation 31,32 and 32 A of the FCI(staff) Regulation, 1971(as amended)

15. From the perusal of the charge sheet and W/S it is admitted that the complainant is not charged for misappropriation of any stocks amounting to Rs. 8,80,44,029.00 (Eight crore eighty lac forty four thousand twenty nine) rather he was charged for his carelessness and ignorance in conducting PV. It is very pertinent to mention here that PV was conducted by this complainant as on 30.09.009 and thereafter another PV as on 31.12.2009 & 31.03.2010 and 30.06.2010 was also conducted by other person and all the team as said above has found the stock as per book balance at PPC Dumraon. In charge PPC Dumaroan Sri U.K. Dubey gave a letter on 11.10.2010, Ext. W-12 that at present there is no stock at PPC Dumraon and the stocks are misappropriated by the millers. The Headquarter team visited PPC Dumraon in between 28.02.2011 to 04.03.2011 when there was no stock and the godown was de-hired but in their report they have indicted all the PV teams since 30.9.09 to 30.6.10 that they were connived with depot in charge and conducted PV on paper though there was no stock. The said finding of the committee is not based on any document rather the same was their presumption, and anticipation which is not acceptable in the eye of law.

16. PPC Dumraon was visited by other officials and officer for QC treatment in between 30.9.09 to 30.06.2010 and they have also not reported about any shortage or misappropriation as alleged by head quarter team, therefore, indictment of the complainant in this case is illegal. The stock as alleged may be misappropriated by the depot in charge in between 01.07.2010 to 11.10.2010 as more than three months' time is sufficient to misappropriate the said stock by U. K. Dubey otherwise it should have been detected earlier but nothing was reported and it goes to prove that there was stock available as on 30.09.2009, therefore, the report of the Headquarter team much after the date of the PV is not believable. It is also proved from the FIR lodged by the Area Manager on 16.10.2010 (Ext.- W-19) where in only one person the depot in charge U K Dubey was named as accused. Complainant name is not in the FIR. Area Manager FCI Patna who lodged the FIR was the principle officer of the corporation and Dumraon godown was in his jurisdiction and he was fully aware about the official who was guilty for this misappropriation and after considering all the circumstances FIR was lodged only against depot in charge not against the complainant as such it cannot be alleged that this complainant was in any way responsible for misappropriation detected only on 11.10.2010 after the declaration of depot in charge and that too after more than a year of conducting P.V. by this complainant ,therefore, charges are not proved against the complainant.

17. After considering evidence, argument and pleading of the parties it is crystal clear that Opp.Party has grossly discriminated the complainant while passing the order of punishment and arbitrarily awarded punishment of dismissal with forfeiture of gratuity and other post-retirement benefits whereas other charged officials Laxman Ram, Mukul Kumar and Sadanand Prasad for the same and similar allegation were awarded a minor punishment of reduction of 2 increments and thus there is clear cut victimization of the complainant in this case. The action of the Opp.Party is malafide and tainted with malice and the same is fit to be set at rest. The Opp.Party has also failed to prove the role of this complainant in misappropriation of the stock and also failed to prove that the stock was not available from before the PV conducted by this complainant rather it is proved by the complainant that the stock was available at the time of PV as on 30.09.2009 as per book balance from the records maintained by FCI itself. However, some minor ignorance on the part of the complainant may not be ruled out. As such the complainant is entitled to get all his pay and allowances from the date of his dismissal till the date of normal retirement but after effecting reduction of 2 increments as a minor punishment as has been done by the Opp.Party in case of other officials.

18. Considering the facts and circumstances of this, I hold that action of the Opp.Party in dismissing the complainant with forfeiture of post-retirement benefits including gratuity dated 30.11.2012 and the order of Appellate authority dated 01.05.2013 confirming the punishment are illegal and unjustified and ,therefore, the same are set aside. Opp.Party is further directed to pay the complainant full back wages and all other benefits including gratuity after effecting reduction of 2 increments in order to maintain parity as his co delinquent whose case has been decided by Apex Court in SLP(C) 22573 of 2015. The above direction must be implemented within 1 month from the date of publication of the award in the Gazette of India.

This is my award .

R. K. SARAN, Presiding Officer

नई दिल्ली, 19 फरवरी, 2018

का.आ. 363.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मेसर्स सी.पी.डब्ल्यू.डी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण/सह-श्रम न्यायालय-1, धनबाद के पंचाट (संदर्भ सं. 99/2004, 101/2004, 102/2004, 105/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.02.2018 को प्राप्त हुआ था।

[सं. एल-42012/213, 219, 218, 215/2003-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 19th February, 2018

S.O. 363.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. ID No. 99/2004, 101/2004, 102/2004 and 105/2004) of the Central Government Industrial Tribunal-cum-Labour Dhanbad 1, as shown in the Annexure, in the Industrial Dispute between the management of M/s. CPWD and their workman, which was received by the Central Government on 09.02.2018.

[No. L-42012/213, 219, 218, 215/2003-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1)(d) (2A) of I.D.Act, 1947

Reference No. 99/2004, 101/2004, 102/2004 & 105/2004

Employers in relation to the management of C.P.W.D, Patna

And

Their workmen

Present : Shri R. K. Saran, Presiding Officer

Appearance:

For the Employers : Shri D.K.Verma, Advocate

For the workman : Shri Satish Kumar, Rep.

State : Bihar

Industry : Urban Development

Dated : 15/01/ 2018

AWARD

Reference . 99/2004

By Order No. L- 42012 /213/2003/IR (CM-II) dated 22.11.2004, the Central Government in the Ministry of Labour has in exercise of the power conferred by clause (d) of sub – section (1) and sub – section (2A) of section 10 of the Industrial Disputes Act , 1947 referred the following dispute for adjudication to this Tribunal :

SCHEDELE

“Whether the action of Management of CPWD, Patna in not regularizing the services of Sh. Dipu Kumar, Beldar from the date of his initial appointment is legal and justified? If not, to what relief the said workman is entitled.”

REFERENCE No. 101/2004

By Order No.L- 42012 /219/2003/IR (CM-II) dated 22.11.2004, the Central Government in the Ministry of Labour has in exercise of the power conferred by clause (d) of sub – section (1) and sub – section (2A) of section 10 of the Industrial Disputes Act , 1947 referred the following dispute for adjudication to this Tribunal :

SCHEDELE

“Whether the action of Management of CPWD, Patna in not regularizing the services of Sh. Manoj Kumar, Carpenter from the date of his initial appointment is legal and justified? If not, to what relief the said workman is entitled?”

REFERENCE No. 102/2004

By order no . L-42012 /218/2003/IR (CM-II) dated 22.11.2004, the Central Government in the Ministry of Labour has in exercise of the power conferred by clause (d) of sub – section (1) and sub – section (2A) of section 10 of the Industrial Disputes Act , 1947 referred the following dispute for adjudication to this Tribunal :

SCHEDULE

“Whether the action of Management of CPWD, Patna in not regularizing the services of Sh. Pramod Kumar, Sewerman from the date of his initial appointment is legal and justified? If not, to what relief the said workman is entitled?”

REFERENCE No. 105/2004

By order No . L-42012 /215/2003/IR (CM-II) dated 22.11.2004, the Central Government in the Ministry of Labour has in exercise of the power conferred by clause (d) of sub – section (1) and sub – section (2A) of section 10 of the Industrial Disputes Act , 1947 referred the following dispute for adjudication to this Tribunal :

SCHEDULE

“Whether the action of Management of CPWD, Patna in not regularizing the services of Sh. Ajay Kumar, Plumber from the date of his initial appointment is legal and justified? If not, to what relief the said workman is entitled?”

2. All cases received from the Ministry of Labour on 01.12.2004. After receipt of the references, both parties are noticed. The Workmen representative files their written statement On 28.01.2005. and management files their written statement on 28.04.2005. Thereafter rejoinder and document filed by the both side. One witness examined on behalf of the management but two witnesses examined on behalf of the workman. Documents of workman marked separately. All cases are similar nature of case, hence heard analogously and award passed in a common order.

3.The **case of the workman of Sri Dipu Kumar of Ref No. 99/2004** is that, he was employed as Beldar on contract basis w.e.f. 01.09.1995 for day to day maintenance of the principal employee i.e Central Public Works Department, Patna shortly named as CPWD through contractor M/S Mithelesh Kumar Thakur and still in employment with the management as contract worker and the management denied to regularize them. Hence industrial dispute arose.

4. The **case of the workman of Sri Manoj Kumar of Ref No. 101/2004** is that, he was employed as Carpenter on contract basis w.e.f. 01.11.1996 for day to day maintenance of the principal employee i.e Central Public Works Department, Patna (CPWD) through contractor M/S B.Chadha c/o Executive Engineer, Central Division-1, Patna and still in employment with the management as contract worker and the management denied to regularize them. Hence industrial dispute arose.

5. The **case of the workman of Sri Pramod Kumar of Ref No.102/2004** is that, he was employed as Sewerman on contract basis w.e.f. 06.12.1994 for day to day maintenance of the principal employee i.e Central Public Works Department, Patna (CPWD) through contractor M/S Anjani Kumar C/O Executive Engineer, Central Division-1, Patna and still in employment with the management as contract worker and the management denied to regularize them. Hence industrial dispute arose.

6. The **case of the workman of Sri Ajay Kumar of Ref No.105/2004** is that, he was employed as Plumber on contract basis w.e.f. 01.07.1997 for day to day maintenance of the principal employee i.e Central Public Works Department, Patna (CPWD) through contractor M/S SST Engineer C/O Executive Engineer, Central Division-1, Patna and still in employment with the management as contract worker and the management denied to regularize them. Hence industrial dispute arose.

7. It is also submitted by the workman that the Govt. of India, Ministry of Labour issued Gazette Notification dated 31.07.2002 and abolished the employment of Beldar, sewerman, Plumber, meson, carpenter etc. on contract basis then the Director General of works, CPWD instructed all the units to implement the notification. Thereafter the Director General of CPWD instructed all the units to implement the said notification on 27.11.2002.

8. It is further submitted by the workmen that during the course of their employment , the workmen has been working under several contractor who were awarded the contracts from time to time , However, despite the change of contractor , the services of the workmen continued under the management . Thus the workmen has performed continuous service under the management and put 240 days service in each year under the management and has been performing the duties of sewerman, Carpenter, mason, Plumber which are essentially the same duties that are performed by regular workmen in the CPWD. The work being done by the workman is essential to the work of the CPWD for day to day maintenance etc.

9. It is also submitted by the workman that the workmen during the course of his employment since two decades to till date has been continuously working under the same management but the under different contractors shows that there is an actual employer-employee relationship between the CPWD and the workmen and that the contractor is mere sham entity to that the workmen is denied the status and privileges of regular employee and remain as contract labour for the

whole service period. It is abundantly clear that the workman had been directly working under the CPWD continuously for number of years under the direct supervision and control of the management, the contract between the contractor and the management is not genuine but just a smoke screen to defeat the provision of various beneficial legislations designed to protect the interest the workmen but after regular representation the management deny the permanent status to the workman hence industrial dispute arose.

10. On the other hand the case of the management is that there is no contract with the workmen to perform work under the management. It is stated that CPWD enters in large number of contracts with contractor to dispose off various work on time to time as per requirement. The work get executed by the contractors under supervision of engineers of CPWD to see that the agreement condition are being adhered to or not. It is the responsibility of the contractor to complete the job by engaging skilled/unskilled workmen at his disposal the department is to see whether the labour so engaged are paid minimum wages as prescribed by the appropriate authority from time to time. In present case it not correct to say that the said workmen had performed continuous service under the management.

11. It is further submitted by the management is that the said person is not engaged by the department and the work done by the workmen is not perennial nature . Hence the department is not liable to give the benefit as claimed by him. it is also stated that the workmen has never been paid for his service by the department . in fact all the instruction to the workers were passed to him, being an authorized representative of the contractor. The contractor was being paid for his services after completion of the same as per work order. It is reiterated that there had never been a employer-employee relation with the workers.

12. Short point is to be decided that whether the concerned contractor workmen were regularize in the CPWD or not.

13. The case of the workmen are that, they are working in different post since long at CPWD. It is permanent nature of job under the direct control and supervision of the management. But the management deny and submits that the said persons are not engaged by the department. The workmen were working under contractor and wages was also paid by the contractor hence the management is not liable to give any benefits to the workmen. The department issued work order and the workmen doing the work under supervision of contractor. The management also says that the department entered into large number of contract for construction and providing services for maintenance job through contractor for a definite period.

14. The workmen argued that the nature of job discharged by all four workmen is permanent and perennial in nature and the job satisfy all the ingredients contained in section 10 of the Contract Labour (Regulation & Abolition) Act 1970 work suiting abolition of contract labour in the said job. It is stated that the contract awarded by CPWD in favour of contractor for carrying itself is vague which ought to be lifted in Industrial adjudication.

15. It was further submitted that the workmen are placed under the direct control and supervision of principal Employer and the contractor has no role to play in day to day affairs of working of the workmen. It is stated that the nature of job performed by the workmen are similar to the workmen posted on regular basis and they work as under the principal employer.

16. On the other hand It is submitted on behalf of the management that the matter regarding abolition of contract labour in CPWD had been taken up for hearing by Hon'ble High Court of Delhi in various writ petition for abolition of contract Labour (Regulation & Abolition) Act 1970. The Hon'ble High Court in their judgment dated 26.05.2000 in civil writ petition No. 3741/1998 along with other civil writ petition enumerated their in, have observed thus, “ these writ petition are accordingly disposed of with the following direction”.

If the decision is taken to abolish the contract labour in particular job/work in any of the offices/ establishment of CPWD.

17. In resolution of the Supreme Court in Air India Statutory Corporation(Supra) such contract workers would be entitled to be absorbed with CPWD and would be entitled to claim the benefits in terms of the aforesaid judgment. In case of the decision of the Appropriate Government is not to abolish contract Labour system in any of the work/job in any offices/establishment of CPWD the effect of that would be that contract Labour system is permissible and in that eventuality CPWD shall have the right to deal with these contract workers in any manner it deems fit.”

18. The exercise undertaken by the appropriate government U/S 10 of the Act standing with the formation of a committee by resolution dated 30 March 2000 should be completed as expeditiously as possible and in any case within a period of six months. It is admitted fact that the workmen are still working in the department. It becomes quite obvious that the work is of permanent nature and the workmen are still discharging their duties.

19. It has been held in (1992)4 SCC 118 “ Regularisation – Adhoc/temporary govt. employee-principles laid down – those eligible and qualified and continuing in service satisfactorily for long period have a right to be considered for regularization –long continuance in service gives rise to a presumption about need for a regular post- But mere continuance for one year or so does not in every case raise such a presumption-Govt. should consider feasibility of regularization having regard to the particular circumstances with a positive approach and an empathy for the concerned person.”

20. Labour Law-regularisation-work charged/casual/daily wage workers- in case of long continuance in service presumption for regular need of service would arise obliging authority concerned to consider with a positive mind feasibility of regularization-statutory /public corporation should also follow suit.”

21. Two witnesses examined on behalf of the workmen the concerned workmen individually says in their behalf that “ I have been working since 1994 in CPWD under the contractor. Contractor are changed but we are working.”

22. WW-2 Sri Jugal Kishore Gupta, says, the operative portion is quoted below:-

“I am a departmental employee. To Support that I am filing my I.D Card. I joined in the year 1993. I can file my appointment letter. I was a daily wager prior to regularization. Though SST Engineering engaged the workman in CPWD did not give them any I.D Card. The workmen is a sewerman in same case. I am a member of the Union Pramod Kumar is working as sewerman. The book supplied to the workman by JE but he did not give appending his signature their in.”

23. MW-1 Roshan Kumar say that “I have knowledge regarding the case. The workmen works as per contract, the maintenance work painting, carpentry, minor repair. I have not seen the contract agreement nor it is filed. I can not say whether the workmen engaged since 1995. I cannot say how many agreement entered with the workman concerned/ contractor.”

24. On perusal of evidence if is noticed that the WW-2 is also a workman prior to regularization he was also a daily wager, and he adduce for all four workmen listed in all four cases. He also says that JE of the department is not giving signature on the book of workmen which is supplied to the workmen. It means the management is not fair and some thing is hidden. The MW-1 is admitted that the agreement between the management and contractor is not filed he also says that I have not seen the contract agreement.

25. As per the Govt. of India Gazette published in SO No. 813 (E) dated 31st July 2002 in which 15 works is mentioned unsub section (2) of section 10 of the said Act hereby prohibits employment of contract Labour which is marked different Number as exhibit in all four reference case and in SO No. 814 (E) dated 31st July 2002 notified by Govt. of India in Gazette of India in which the contract workers should be paid wages at par with the departmental workers.

26. The Tribunal has to examine relationship between the management and the workmen. It is to be examined whether there exists master and servant relation or not. It has been held in 1999 Lab IC 825 that the Tribunal can give findings that contract between the company and its contractors is sham and bogus. The findings will not obviously abolish the contract Labour System so the matter referred to here is regarding the factual findings whether contract is sham and bogus. There is no reference regarding abolition of contract labour.

27. In the present case almost 4 workmen have been working since 1994/1997 . The contractors have changed every year as per the admission of the management witness. All four workmen have been performing work since 1994/1997. The workmen worked in the establishment of the management . The management has control and supervision over the contractor's workmen. The workmen remaining the same. The contract and contractor is changed every year so certainly this is a façade of the papers and contract is camouflage and shame and bogus. The entire establishment is owned and maintained by the management where the contractor's workmen are employed. The contract is not genuine .

28. The contract Labour is to be abolished whenever the contract is found sham and not genuine In the instant case the contractor is only name giver. The workmen are under the control and supervision of the management. It has been held by the Hon'ble Supreme Court in AIR 1986 SC-1 workmen ARI Ltd vs. Bhaw Nagar that the Tribunal has jurisdiction to examine the reality behind the façade of paper arrangement of contract Labour system so according to the judgment of the Apex Court the Tribunal can examine the genuineness or otherwise of the contract labour . I fine no force in the argument of the management.

29. The management is an instrumentality of the Central Government . They are charged with the duties of discharging their functions in a fair and just manner . They are expected to act justly and fairly and not arbitrarily or capriciously. The management has not been acting fairly impartially and reasonably. It is their duty to act fairly . Contractors have been changed but the workmen remain the same. It is almost the admitted case of the management. The management has doubtless control over the alleged contractor's workmen as they work in the establishment of the management . They are integrated to the service of the management . There are no terms and conditions of the contract so there is master and servant relationship . The creation of contract labour is only sham and camouflage and the employer cannot be relieved of his liabilities.

30. In JT 1999 (2) SC 435- the Hon'ble Supreme Court has held that if the work is of perennial nature or of sufficient duration, contract workers shall be considered to be the direct employees of the management and they are entitled to be absorbed permanently as employees of the management. The Government of India has notified in Gazette of India in SO No. 813 (E) dated 31st July 2002 unsub section (2) of section 10 of the said Act hereby 15 works are prohibited category of employment of contract Labour. In this instant case all four workmen are prohibited nature of workmen. The engagement of contract workers for perennial and regular nature of job is also prohibited. From the foregoing it becomes quite obvious that these four workmen have been working regularly and even without artificial break since 1994 /1997.

The contract is camouflage. There is direct relation of master and servant between the management and the contract workers.

31. In Constitution Bench Judgment of Steel Authority of India is squarely applicable in the instant case in JT 2001 (7) SC 268 some portion is quoted below:-

"If the contract is found to be not genuine but a mere camouflage, the so called contract labour will have to be treated as employees of the principle employer who shall be directed to regularize the service of the contract labour in the establishment concerned."

32. Hon'ble Apex Court has directed that if the workmen have been working for 10 years regularly and without order of court The Government should consider feasibility of their regularization but the management has not considered so. These workmen have worked for more than 20-22 years. Their service have not been regularized so the workmen deserve regularization within two month.

33. considering the facts and circumstances of this case, I hold that the action of Management of CPWD, Patna in not regularizing the services of Sh. Ajay Kumar (Plumber), Sh. Dipu Kumar (Beldar), Sh. Manoj Kumar (Carpenter), and Sh. Pramod Kumar, Sewerman is not justified. Hence they be regularize at once within two month from the date of publication of the award in lowest grade.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 19 फरवरी, 2018

का.आ. 364.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मैसर्स इस्टर्न कोलफील्ड लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/सह-श्रम न्यायालय आसनसोल के पंचाट (संदर्भ सं. 11/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.02.2018 को प्राप्त हुआ था।

[सं. एल-22012/382/1997-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 19th February, 2018

S.O. 364.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. ID No. 11/1998) of the Central Government Industrial Tribunal-cum-Labour Court Asansol, as shown in the Annexure, in the Industrial Dispute between the management of M/s. E.C.L., and their workman, which was received by the Central Government on 14.02.2018.

[No. L-22012/382/1997-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Shri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 11 OF 1998

PARTIES : The management of Parasea 6/7 Incline of M/s. ECL

V/s.

Shri SWAPAN BOURI

REPRESENTATIVES :

For the Management : Shri P. K. Das, Learned Advocate

For the Union (Workman) : Shri Rakesh Kumar, Learned Union Representative

INDUSTRY : COAL

STATE : WEST BENGAL

Dated : 02.02.2018

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/382/97-IR (CM-II) dated 20.05.1998 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management in dismissing Sh. Swapan Bouri, U. G. Loader of Parasea 6/7 Incline of M/s. ECL is legal and justified? If not, to what relief the workman is entitled? ”

1. Having received the Order **NO. L-22012/382/97-IR (CM-II)** dated 20.05.1998 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. **11 of 1998** was registered on 22.06.1998. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative.

2. Late Shri Swapan Bouri, workman was a permanent workman of Parasea 6/7 Inclines under Kunustoria Area of M/s. Eastern Coalfields Limited and his designation was Conveyor Operator. Since long time the workman was suffering from various disease. He was very weak to perform the duty of Underground Loader. Due to said ailment which suddenly aggravated on the last part of December, 1987 the workman could not attend his duty since 01.01.1988. During the said period he was under medical treatment of village doctor. Since workman belongs to Scheduled Tribe community and in Scheduled Tribe community persons usually get themselves treated by quack doctors as prevailing practice. After being declared fit he reported for duty on 18.12.1989, but he was not allowed to join his duty rather he was Charge Sheeted. He duly replied the Charge Sheet. Management did not consider the said reply to be satisfactory and proceeded to hold an enquiry into the said Charge Sheet dated 18.12.1989. The Enquiry Officer was biased against the workman and conducted the enquiry in violation of natural justice. Workman has prayed that tribunal may kindly set aside the dismissal order and direct the management to reinstate the workman in service with immediate effect and to pay full back wages with other incidental benefits.

3. The Agent of Parasea 6/7 Inclines under Kunustoria Area of M/s. Eastern Coalfields Limited has alleged in his written statement that concerned workman Late Shri Swapan Bouri was absent from duty unauthorizedly without any information. The workman being an Underground Loader his absence contributed to disruption of day to day working and caused adverse effect on production. Employer waited for considerable period. Employer issued Charge Sheet No. POCP/6&7 Incl/P&IR/CS/88/4712 dated 18.12.1989. The workman did not reply to the Charge Sheet. The enquiry was conducted in full compliance of natural justice. The workman participated in the enquiry proceeding. The workman did not produce any documentary or oral evidence regarding his heart problem during the enquiry proceeding. The enquiry is fair and bona fide. Considering the gravity of misconduct the workman was dismissed. Dismissal of the workman is fair and proper.

4. Workman has filed rejoinder written statement. The workman has reiterated the allegation mentioned in his written statement. He has alleged that the enquiry is biased. The enquiry is devoid of natural justice. The allegation of management is incorrect.

5. I have heard the arguments of Shri P. K. Das, learned advocate of Parasea 6/7 Inclines under Kunustoria Area of M/s. Eastern Coalfields Limited and Shri Rakesh Kumar, union representative on behalf of the workman, Late Shri Swapan Bouri.

6. The concerned workman Late Shri Swapan Bouri expired on 26.04.2003. But the union representative filed substitution application on 13.06.2017 after lapse of more than 14 (Fourteen) years. Even the proposed Legal heirs did not disclose the reason of delay in substitution application dated 13.06.2017. Consequently the Tribunal rejected the substitution application dated 13.06.2017 on ground of delay. Due to death of the concerned workman Late Shri Swapan Bouri, the reference is abated.

7. Since, the reference is abated due to death of workman Late Shri Swapan Bouri. The workman is not entitled to any relief.

ORDER

Let an "Award" be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer